



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

### **NOVEMBER 5, 2002 GENERAL MUNICIPAL ELECTION - CERTIFIED STATEMENT OF ELECTION RESULTS**

#### **RECOMMENDED ACTION:**

**Adopt** a Resolution Reciting the Facts of the General Municipal Election of November 5, 2002.

#### **EXECUTIVE SUMMARY:**

A General Municipal Election was held on November 5, 2002 for the purpose of electing one Mayor and two Council Members and to vote on a Ballot Measure (Measure C, Transient Occupancy Tax). Pursuant to Elections Code Section 10262, a resolution reciting the facts of the General Municipal Election will need to be adopted by the City Council. The Santa Clara County Registrars of Voters has not concluded canvassing the election returns and anticipate concluding the canvass of votes by December 3, at which time they will issue a Certified Statement of Election Results. As such, staff will prepare a Resolution Reciting the Facts of the November 5, 2002 Election for City Council adoption prior to the December 4 meeting.

**FISCAL IMPACT:** The invoice for the General Municipal Election has not yet been received. \$18,000 has been budgeted under the Elections budget (010-42231-2420) to cover the contract services to be charged by the Registrar of Voters. If the election cost exceeds the budgeted \$18,000, staff will need to return to the Council with a budget adjustment to cover the cost of the election.

**Agenda Item # 1**

**Prepared/Approved  
By:**

**Council Services &  
Records Manager/  
Elected City Clerk**

**Submitted By:**

**City Manager**



**CITY COUNCIL/REDEVELOPMENT  
AGENCY STAFF REPORT**

**MEETING DATE:** *December 4, 2002*

**SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE  
AND REDEVELOPMENT AGENCY VICE-CHAIR**

**RECOMMENDED ACTIONS:**

**City Council:**

- 1) **Open floor to nomination(s) for Mayor Pro Tempore**
- 2) **Select Council Member to serve as Mayor Pro Tempore per City Council Policy**

**Redevelopment Agency:**

- 1) **Open floor to nominations for Vice-chair**
- 2) **Select Agency Member to serve as Vice-chair per Redevelopment Agency Bylaws**

**EXECUTIVE SUMMARY:**

**City Council**

The City Council has adopted a Policy which sets forth the criteria for the selection of Mayor Pro Tempore annually for a one-year term. The adopted Policy is intended to provide every Council Member the opportunity to serve as Mayor Pro Tempore. Nomination for the Mayor Pro Tempore seat is to be made on the basis of the length of time that an individual has served on the City Council and whether or not the nominee has previously had the opportunity to serve as Mayor Pro Tempore. The Mayor or any member of the City Council may nominate a member to serve as Mayor Pro Tempore. A copy of the Policy is attached.

All Council Members have had the opportunity to serve as Mayor Pro Tempore: Council Member Chang (12/99 - 1/00); Council Member Tate (1/00 - 12/00); Council Member Sellers (12/00 - 12/01); and Council Member Carr (12/01 - 12/02). The Council Member selected to serve as Mayor Pro Tempore will serve as such from December 4 through November 19, 2003 per the adopted Council policy.

**Redevelopment Agency**

The current Bylaws of the Redevelopment Agency stipulates that a "Vice-chairperson shall be appointed annually be a majority vote of the Agency Commissioners . . ." The Bylaws do not stipulate that every Commissioner shall be afforded the opportunity to serve as Vice-chairperson. The Redevelopment Agency Board typically appoints a Vice-chair at the same meeting that the Mayor Pro Tempore is appointed.

Staff has researched who has had the opportunity to serve as Vice-chair and have found the following: Agency Member Sellers (1/00 - 12/00); Agency Member Carr (12/00 - 12/01); and Agency Member Chang (12/01 - 12/02). Staff found that the only Agency Member who has not had the opportunity to serve as Vice-chair is Agency Member Tate.

It is recommended that the Agency Commission select, by a majority vote, an Agency Member to serve as the Redevelopment Agency Commission's vice-chairperson for a one-year term, ending November 19, 2003 (to coincide with Mayor Pro Tempore appointment schedule).

**FISCAL IMPACT:** No Fiscal Impact.

**Agenda Item # 2**

**Prepared/Approved  
By:**

**Council Services &  
Records Manager/  
Elected City Clerk**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

**Agenda Item # 3**

**Prepared By:**

**Asst. to City Manager**

**Submitted By:**

**City Manager**

### **ANNUAL REPORT ON ADVANCED LIFE**

### **SUPPORT SERVICES**

#### **RECOMMENDED ACTION**

**Accept** report from Santa Clara County Fire Department for Advanced Life Support (ALS) services from July 2001 to August 2002.

#### **EXECUTIVE SUMMARY:**

Effective June 1, 2000, the City's contract with Santa Clara County Fire Department for fire protection services was amended to reflect the provision of fire engine-based Advance Life Support (ALS) First Responder Services. This contract amendment guaranteed that firefighter paramedics would be assigned to each engine company in Morgan Hill around the clock.

Attached is a service report from County Fire for ALS services provided between July 2001 and August 2002. In the City's agreement with the County, the following service benchmark was established: that the County would respond to Code 3 medical calls to urban areas in less than 12 minutes at least 90% of the time. This benchmark was met in the July 2001 to August 2002 time frame. In fact, during that time period, Code 3 medical call response times of 7.59 minutes or less were achieved 97.8% of the time.


#### **FISCAL IMPACT:**

The contract for Advanced Life Support services has been incorporated in the FY 2002-03 budget. No financial adjustment is required.

**FIRE DEPARTMENT  
SANTA CLARA COUNTY**

**MEMORANDUM**

October 18, 2002

**TO:** Ben Lopes, Fire Chief   
**FROM:** Thomas Tornell, Operations Section Captain  
**SUBJECT:** Morgan Hill City Annual ALS Report July 2001 to August 2002

I have completed the required annual summary of ALS service to the City of Morgan Hill. The following data reflects ALS responses provided by the Santa Clara County Fire Department. The totals for the year reflect responses from El Toro and Dunne Hill Stations. Response exception reporting, by month, has been previously addressed in monthly report summaries to Morgan Hill city staff members.

**ALS Performance Morgan Hill  
07/01- 7/02**

<b>Adjusted Monthly Performance</b>		
<b>Month</b>	<b>Count</b>	<b>&lt;7:59 Minutes</b>
Jul-01	85	96.51%
Aug-01	81	100.00%
Sep-01	82	95.12%
Oct-01	92	96.74%
Nov-01	81	97.53%
Dec-01	75	100.00%
Jan-02	72	98.61%
Feb-02	78	100.00%
Mar-02	87	97.70%
Apr-02	100	98.00%
May-02	80	97.50%
Jun-02	79	98.73%
Jul-02	95	94.74%

<b>COMPLIANT</b>	<b>TOTAL</b>	<b>&lt;7:59 Minutes</b>
<b>CALLS</b>	<b>CALLS</b>	<b>COMPLIANCE</b>
<b>1063</b>	<b>1087</b>	<b>97.8%</b>

TT:lkc



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE: DECEMBER 4, 2002**

### **AMENDMENT TO LEASE WITH GAVILAN COMMUNITY COLLEGE**

**RECOMMENDED ACTION(S):** 1) Authorize the City Manager to do everything necessary to prepare and execute a lease amendment with Gavilan Community College, 2) Appropriate \$15,000 in the General Fund's Community and Cultural Center Budget and increase revenues projections for the General Fund by \$15,000, and 3) Authorize the addition of a one half-time (.5 FTE) janitorial position in the Community and Cultural Center budget.

#### **EXECUTIVE SUMMARY:**

Gavilan Community College (Gavilan) currently leases space for their satellite campus at the Community and Cultural Center (Center). According to the lease, Gavilan can begin moving into the facility as early as July 2003. Gavilan has indicated they would like to begin holding classes in the facility as early as January 2003. Attached is an amendment to the lease that will allow them to move into the facility as early as December 15, 2002. A December move in date will provide Gavilan the lead time it needs to prepare the facility for their classes.

All other provisions of the lease will remain in effect. Gavilan will not begin paying base rent until October 2003. The Agency is not charging a base rent in recognition of Gavilan not being able to "afford" dual rents for both their Vineyard site and the Center. However, they will pay their prorated share of maintenance and utility costs for the Center starting in December 15, 2002.

#### **FISCAL IMPACT:**

In order to provide janitorial services for Gavilan per the lease, the Community and Cultural Center budget will need to be amended to add one-half time (.5 FTE) janitorial position to provide the required services. These services were not anticipated to be needed until FY03-04. Although the added costs will be covered by Gavilan, the Center's budget will need to be amended to reflect the cost of \$15,000 based on the addition of a .5 FTE janitorial position for six (6) months and the corresponding revenue to be received from Gavilan. This budget includes the added supplies and materials required to maintain the Gavilan facility. The next fiscal year budget will reflect the cost of the added half-time position and supplies and materials over an entire year's operation.

**Agenda Item # 4**

**Approved By:**

**BAHS Director**

**Submitted By:**

**City Manager**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *December 4, 2002*

### **AWARD OF CONTRACT FOR DOWNTOWN TRANSIT CENTER AT-GRADE PEDESTRIAN CROSSING PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Appropriate \$45,600 from our unappropriated RDA fund balance to fully fund this project, and
2. Award contract to McGuire and Hester for the construction of the Downtown Transit Center At-Grade Pedestrian Crossing Project in the amount of \$137,916.

#### **EXECUTIVE SUMMARY:**

The scope of work for this project consists of the construction of an at-grade pedestrian railroad crossing connecting the Downtown Transit Center and the Morgan Hill Park-N-Ride Facility. Work will be completed by a joint effort between the contractor and UPRR.

The bid opening was held on November 19, 2002 and the bids received are as listed below:

McGuire and Hester	\$137,916.00
George Bianchi Construction, Inc.	\$139,914.49

The low bidder has worked with UPRR numerous times previously and is a capable contractor for the project. Staff recommends award of the contract to McGuire and Hester. The engineer's estimate was \$105,000. The low bid is approximately \$30,000 or 31% above the engineer's estimate. Due to the small scope of work and multiple move-ins, the bid quotation is considered acceptable given current market conditions. Last week, the City forwarded \$361,309 to UPRR for their portion of the work in accordance with our cooperative agreement. The work of our contractor must be coordinated with the Railroad's schedule, the Railroad informs us (weather permitting) they will start the project in mid-January 2003 and the project should be complete by mid-March 2003.

#### **FISCAL IMPACT:**

The total contract cost for this portion of the project is \$151,708, which includes a 10% contingency of \$13,792. The project will be funded from, Project #204093. With the addition of \$45,600 requested from our RDA unappropriated fund balance, total funding for this project will be increased to \$520,600, with \$150,000 from a State TCIP grant and the remainder from RDA funds.

**Agenda Item # 5**

**Prepared By:**

**Junior Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

**TITLE: GENERAL PLAN IMPLEMENTATION REPORT  
FOR FISCAL YEAR 2001-2002**

**RECOMMENDED ACTION(S):**

1. Accept Report by Minute Action

**EXECUTIVE SUMMARY:**

Action 1.3 of the City's General Plan in the Community Development Element requires the City to annually review progress in meeting General Plan goals and policies. In addition, California Government Code section 65400 requires each planning agency to provide an annual report to the City Council and to the State of California Office of Planning and Research and the Department of Housing and Community Development regarding the progress of the status of the plan and progress in its implementation. In July 2001, all elements of the General Plan were updated except for the Housing Element. The State is in the process of certifying the updated Housing Element.

The attached General Plan Implementation Report reviews the goals and policies achieved during FY 2001-2002. The report briefly reviews each element, including the status of its implementation. Overall, the implementation of the City's General Plan is progressing in a satisfactory manner.

On November 12, 2002, the Planning Commission reviewed the General Plan Implementation report and offered amendments to the report. A copy of the Commission's staff report and draft minutes are attached for the Council's reference.

**FISCAL IMPACT:** This report, prepared in accordance with State Law, was funded by the City Council as part of the Community Development Department's work program.

**Agenda Item # 6**

**Prepared By:**

**Assistant Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**



## **CITY COUNCIL STAFF REPORT**

### **MEETING DATE: December 4, 2002**

**Agenda Item # 7**

**Prepared By:**

**Asst. to the City Mgr.**

**Submitted By:**

**City Manager**

## **2002-03 HAZARDOUS VEGETATION PROGRAM**

### **RECOMMENDED ACTION**

1. **Adopt Resolution** Declaring Weeds and Brush to be a Nuisance and Setting February 5, 2003 as the Date for the Public Hearing Regarding Weed Abatement, and June 4, 2003 as the Date for the Public Hearing Regarding Brush Abatement.

### **EXECUTIVE SUMMARY:**

The City of Morgan Hill has contracted with the Santa Clara County Fire Marshall's Office (FMO) for weed and brush abatement services since 1996. Together, these services constitute the City's hazardous vegetation program. Following the final hearings in the 2001-02 hazardous vegetation program, City staff and FMO staff met to make improvements in the process. Because these programs operate under constraints set by the State of California Health and Safety Code, our ability to streamline the administration of this annual program is limited.

We have combined the commencement resolution for both the weed and brush abatement programs (usually there would be two hearings, one for each program, in a fiscal year). We request that you adopt this resolution December 4, 2002. The public hearings for the weed and brush abatement programs cannot be combined, as properties are identified for the weed abatement program in the fall, and for the brush abatement program in the late spring.

City and FMO staff will be working together to improve communication to the public on these important programs. For example, we will mail letters directly to property owners informing them of the date of the weed and brush abatement assessment hearing in July. In the past, a notice of this hearing was published in the Morgan Hill Times, a legal, but not very effective, means of notifying the affected owners. We have reviewed the information sent to property owners from the County and made suggestions for how to clarify the information provided. In addition, we plan articles in *City Visions*, and will encourage local newspapers to carry articles about these programs as well. Finally, we have planned the assessment hearing date for July 16, 2003. In the event that questions arise that cannot be answered on July 16, they could be addressed at a subsequent Council meeting prior to August 10, 2003, when the list of charges must be received by the County Assessor's Office.

The Hazardous Vegetation Program helps preserve and improve the high quality of life in Morgan Hill. It also meets important safety concerns by eliminating potential fire hazards in Morgan Hill.

### **FISCAL IMPACT:**

The Hazardous Vegetation Program is user fee supported. The per-lot assessment includes costs for doing the weed control work plus the overhead cost to provide the service. The user fees have increased 1.19% compared to FY 2001-02. This was the increase in CPI over the same time, and is provided for in the County's contract with their abatement contractor.



## **RESOLUTION NO. 5626**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DECLARING CERTAIN HAZARDOUS VEGETATION GROWING IN THE CITY OF MORGAN HILL TO BE A PUBLIC NUISANCE, DESCRIBING PROPERTIES WHERE SUCH NUISANCE EXISTS; ORDERING ABATEMENT AND SETTING A PUBLIC HEARING THEREON.**

**WHEREAS**, the City Council finds that certain weeds and brush are growing in the City of Morgan Hill upon the various streets, alleys, sidewalks and upon private property, which said weeds and brush bear seeds of a wingy or downy nature, or which may attain such growth as to become, when dry, a fire menace, or which are otherwise noxious and dangerous; and

**WHEREAS**, the Council further finds and declares that said weeds and brush constitute a public nuisance;

### **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL AS FOLLOWS:**

1. That the weeds as described in the above recital do now constitute and will continue to constitute a public nuisance, and it is ordered that this public nuisance be abated in the manner provided by Ordinance No. 222, New Series, Title VIII, Chapter 8.20 of the Morgan Hill Municipal Code.
2. That the nuisance exists upon all streets, alleys, sidewalks, and private property within said City as shown, described and delineated on the several maps of the property in the City, which are recorded in the Office of the County Recorder of the County of Santa Clara, reference in each instance for the description of any particular street, alley or private property being hereby made to the several maps mentioned, and in the event of there being several subdivision maps on which lots are shown, reference is hereby made to the latest subdivision map.
3. That it is ordered that Wednesday, the 5<sup>th</sup> of February, 2003, at 7:30 p.m., in the Council Chambers of the City Council of the City of Morgan Hill is hereby fixed as the time and place when objections to the proposed destruction of removal of weeds shall be heard and given due consideration.
4. That it is ordered that Wednesday, the 4<sup>th</sup> of June, 2003, at 7:30 p.m., in the Council Chambers of the City Council of the City of Morgan Hill is hereby fixed as the time and place when objections to the proposed destruction of removal of brush shall be heard and given due consideration.
5. That the City Clerk of the City of Morgan Hill is hereby ordered and directed to cause notice of the adoption of this Resolution and notice of hearing to be given to property owners pursuant to Section 39562.1 of the Government Code.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 4<sup>th</sup> Day of December, 2002 by the following vote.

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**🍷 CERTIFICATION 🍷**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. 5626, adopted by the City Council at the Regular Meeting on December 4, 2002.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



***CITY COUNCIL STAFF REPORT***  
***MEETING DATE: DECEMBER 4, 2002***

**ADOPT ORDINANCE NO. 1597, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1530, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A FIVE-MONTH EXTENSION OF TIME FOR SEVEN BUILDING ALLOTMENTS IN PHASE ONE AND A SIX-MONTH EXTENSION OF TIME FOR SIX BUILDING ALLOTMENTS IN PHASE TWO. (APN 728-35-016; 728-35-017)**

**RECOMMENDED ACTION(S):** Waive the Reading, and Adopt Ordinance No. 1597, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

**EXECUTIVE SUMMARY:**

On November 20, 2002 , the City Council Introduced Ordinance No. 1597, New Series, by the Following Roll Call Vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 8**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

## **ORDINANCE NO. 1597**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1530, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A FIVE-MONTH EXTENSION OF TIME FOR SEVEN BUILDING ALLOTMENTS IN PHASE ONE AND A SIX-MONTH EXTENSION OF TIME FOR SIX BUILDING ALLOTMENTS IN PHASE TWO. (APN 728-35-016; 728-35-017)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** Pursuant to Title 18, Chapter 18.78.25 of the Municipal Code, the Planning Commission and City Council respectively adopted Resolution No. 00-03 on March 14, 2000 and Resolution No. 5470 on May 2, 2001, and awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 99-26: Malaguerra-Ansuini/Mancias	7 units for FY 2001-02
	6 units for FY 2002-03

**SECTION 4.** References are hereby made to a certain Agreement on file in the office of the City Clerk of the City of Morgan Hill.

This document, signed by the City of Morgan Hill and the property owner, sets forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council.

**SECTION 5.** The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any

situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

**SECTION 9.** EXCEPTION TO LOSS OF BUILDING ALLOCATION. The project applicant has in a timely manner, submitted necessary planning applications to pursue development. The delay experienced by this project was due to excess time in processing of the final map. The delays are not a result of the developer's inaction and therefore, a five-month Exception to Loss of Building Allocation, extending the time for commencement of construction for seven building allotments in phase one from December 30, 2002 to May 31, 2003 and a six-month extension of time for six building allotments in phase two from June 30, 2003 to December 30, 2003 is granted.

**SECTION 10.** AMENDMENT TO PARAGRAPH 14, ADDING THE FOLLOWING TO SUBSECTION (i) AND AMENDING SUBSECTION (n), AS FOLLOWS:

- (i) Property Owner agrees to include the following open space and landscape improvements in the development:
  - (xi) ~~Provide steps to and pathway along the open space/creek area.~~  
*Install a pathway/sidewalk along Malaguerra Avenue.*
- (n) The property owner agrees to provide the following circulation improvements:
  - (iv) ~~Install low maintenance walkways on-site, and along the creek. provide steps to and pathway along the open space/creek area.~~  
*Install a pathway/sidewalk along Malaguerra Avenue.*
  - (v) ~~Provide for the future extension of Mancias Drive to Peet Road. Should the City decide not to extend Mancias Drive to Peet Road, Property Owner shall provide an alternate Measure P commitment valued at the same number of points.~~  
*In order to make up the two points lost with the elimination of the through street, the Property Owner shall provide steps to and a pathway along the open space/creek area install a pathway/sidewalk along Malaguerra Avenue. (one point). The project master plan was also deemed 'above average' under the Orderly and Contiguous Development category (one point).*

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**SECTION 11.** Exhibit B of the development agreement is amended to read as follows:

**EXHIBIT "B"**

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**FY 2001-2002 (7 UNITS), FY 2002-2003 (6 UNITS)  
DEVELOPMENT SCHEDULE MP-99-26: MALAGUERRA - ANSUINI/MANCIAS**

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<b>I. SUBDIVISION AND ZONING APPLICATIONS</b>	
Applications Filed:	November 21, 2000
<b>II. SITE REVIEW APPLICATION</b>	
Application Filed:	April 27, 2001
<b>III. FINAL MAP SUBMITTAL</b>	
Map, Improvements Agreement and Bonds:	October 1, 2001
<b>IV. BUILDING PERMIT SUBMITTAL</b>	
Submit plans to Building Division for plan check:	
FY 2001-2002 (7 units)	January 15, 2002
FY 2002-2003 (6 units)	January 15, 2003 <b><i>June 15, 2003</i></b>
<b>V. BUILDING PERMITS</b>	
Obtain Building Permits:	<del>April 1, 2002</del>
FY 2001-2002 (7 units)	<del>October 1, 2002</del> <b><i>February 28, 2003</i></b>
FY 2002-2003 (6 units)	<del>April 1, 2003</del> <b><i>October 1, 2003</i></b>
Commence Construction:	<del>June 30, 2002</del>
FY 2001-2002 (7 units)	<del>December 30, 2002</del> <b><i>May 31, 2003</i></b>
FY 2002-2003 (6 units)	June 30, 2003 <b><i>December 30, 2003</i></b>

Failure to obtain building permits and commence construction by the date listed in Section V. above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit under Sections III. and IV., respectively, two (2) or more months beyond the filing dates listed above, shall result in applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above, Sections III. and IV., respectively, may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least seven (7) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 20<sup>th</sup> Day of November 2002 and was finally adopted at a regular meeting of said Council on the 4<sup>th</sup> Day of December, 2002 and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES:            COUNCIL MEMBERS:**  
**NOES:           COUNCIL MEMBERS:**  
**ABSENT:        COUNCIL MEMBERS:**  
**ABSTAIN:       COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
**Irma Torrez, City Clerk**

\_\_\_\_\_  
**Dennis Kennedy, Mayor**

**☪ CERTIFICATE OF THE CITY CLERK ☪**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1597, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 4<sup>th</sup> Day of December, 2002.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES - NOVEMBER 13, 2002**

**CALL TO ORDER**

Mayor Kennedy called the meeting to order at 4:15 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Chang, Tate and Mayor Kennedy  
Late: Council Member Carr  
Absent: Council Member Sellers

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the special meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor Kennedy opened the floor to public comment. No comments were offered.

**GENERAL BUSINESS**

**1. MORGAN HILL COMMUNITY AND CULTURAL CENTER TOUR**

Director of Community Development Bischoff led the Council and other community members through an inspection tour of the Morgan Hill Community and Cultural Center's Construction progress.

**ADJOURNMENT**

Mayor Kennedy adjourned the inspection tour of the Morgan Hill Community & Cultural Center at 5:21 p.m.

**MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk**



**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES - NOVEMBER 13, 2002**

**CALL TO ORDER**

Mayor Kennedy called the meeting to order at 7:04 p.m.

**ROLL CALL ATTENDANCE**

Present: Council Members Carr, Chang, Sellers, Tate and Mayor Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the special meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

**CLOSED SESSION**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority: Government Code Section 54956.9(a)

Case Name: Hacienda Valley Mobile Estates v. City of Morgan Hill

Case Numbers: Santa Clara County Superior CV 807708; Ninth Circuit Court of Appeal 02-15986

Mayor Kennedy indicated that the closed session would be deferred to the conclusion of the prior scheduled special meeting agenda.

**ADJOURNMENT**

City Manager Tewes informed the City Council that City Attorney Leichter had to excuse herself from the remainder of the meeting, indicating that the closed session item could be deferred to a later date.

Due to the lateness in the hour, the Council deferred discussion of the closed session item to a later date. Mayor Kennedy adjourned the meeting at 11:10 p.m.

**MINUTES RECORDED AND PREPARED BY**

\_\_\_\_\_  
IRMA TORREZ, City Clerk



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

### **DEVELOPMENT AGREEMENT DA 02-10: E. Dunne Ave.- First Community Housing**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing
2. Continue Item to December 18, 2002 City Council Meeting

#### **EXECUTIVE SUMMARY:**

This item was originally scheduled to be heard by the City Council at their December 4, 2002 meeting. Due to a public noticing error, the item needs to be continued to the next City Council meeting December 18, 2002, and noticed again with the correct hearing date.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 11**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

**TITLE:      DEVELOPMENT AGREEMENT AMENDMENT  
DAA 01-06: COCHRANE-COYOTE ESTATES**

**RECOMMENDED ACTION(S):**

1. Open/close Public Hearing
2. Continue Item to December 18, 2002 City Council Meeting

**EXECUTIVE SUMMARY:** This item was originally scheduled to be heard by the City Council at their December 4, 2002 meeting. Due to a public noticing error, the item needs to be continued to the next City Council meeting December 18, 2002, and noticed again with the correct hearing date.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 12**

**Prepared By:**

**Assistant Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

### **DEVELOPMENT AGREEMENT APPLICATION, DA-02-07: SHAFER - BAMDAD**

#### **RECOMMENDED ACTION(S):**

1. Open/close Public Hearing
2. Continue Item to December 18, 2002 City Council Meeting

**EXECUTIVE SUMMARY:** The applicant is requesting approval of a development agreement for a 15-unit single-family project located west of Hill Rd, at the terminus of Shafer Ave. and Katybeth Way, north of Conte Way. The subject development, referred to as Tuscany Meadows, received 15 building allotments in the 2001 Measure P competition. The project received seven allotments for FY 2003-04 and eight allotments for FY 2004-05.

This item was originally scheduled to be heard by the City Council at their December 4, 2002 meeting. Due to a public noticing error, the item needs to be continued to the next City Council meeting December 18, 2002, and noticed again with the correct hearing date.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover the cost of processing this application.

**Agenda Item # 13**

**Prepared By:**

**Associate Planner**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

**Agenda Item # 14**

**Prepared By:**

**City Attorney**

**Submitted By:**

**City Manager**

### **WAIVER OF POTENTIAL CONFLICT OF INTEREST WITH STANDARD FUSEE CORPORATION**

#### **RECOMMENDED ACTION:**

1. Council discretion as to whether to waive potential conflict of interest between the City of Morgan Hill and Standard Fusee Corporation.
2. If Council decides to waive the conflict of interest, authorize the City Manager to execute the attached waiver of the conflict of interest.

#### **EXECUTIVE SUMMARY:**

The law firm of Sedgwick, Detert, Moran & Arnold has requested that the City waive any potential conflict of interest, thereby allowing the law firm to represent Standard Fusee in a matter involving the City, Olin Corporation, and Standard Fusee. The underlying matter pertains to contamination of the City's well on Tennant Avenue from perchlorate. Standard Fusee may have contributed to the contamination.

Sedgwick is representing the Corporation Yard Commission in the fuel leak lawsuit at the Corporation Yard. It thereby indirectly represents the City, and may have, or will, obtain facts relative to the City's position on contamination of the City's water supply. Sedgwick does not represent or provide advice to the City on any other matter.

Because the interests of the City and Standard Fusee are, and will continue to be, adverse, Rule 3-310(C)(3) of the State Bar's Rules of Professional Conduct requires that the firm obtain the City's informed written consent before the firm may commence representation of the Standard Fusee. Whether to grant the consent is discretionary with the Council.

A letter from Sedgwick is attached hereto for the Council.

**CONSISTENCY WITH CITY GOALS:** Not applicable.

**FISCAL IMPACT:** None.

**COORDINATED WITH:** Not applicable.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

### **MEXICAN AMERICAN COMMUNITY SERVICES AGENCY INC. (MACSA) REQUEST FOR FUNDING**

**RECOMMENDED ACTION:** Council Discussion and Direction

**Agenda Item # 15**

**Prepared/Approved  
By:**

**Council Services and  
Records Manager/  
City Clerk**

**Submitted By:**

**City Manager**

### **EXECUTIVE SUMMARY:**

Mayor Kennedy has received a letter from Olivia Mendiola, Associate Director of MACSA, requesting Council sponsorship of the Gala performance for Culture Clash at the San Jose Repertory Theater scheduled for January 31, 2003. In her letter, Ms. Mendiola indicates that in supporting this event, the City can join in their commitment in serving the community in the forefront as an extended family support system for children, parents and seniors.

Mayor Kennedy has requested that staff agendaize this item for Council review and discussion to determine whether the Council would like to become a sponsor to MACSA's gala event.

Staff would like to receive Council direction on how it would like to handle this request as well as other requests from non profit agencies. As has been explained in the past, the Community and Promotions budget did not include funding for community activities/sponsorship other than the Taste of Morgan Hill, Independence Day Inc. and Youth Empowered for Success due to budget constraints. It is staff's belief that the City will be receiving several requests for funding from non profit organizations both locally and regionally as the downturn in the economy continues.

**FISCAL IMPACT:** Funding has not been included in the Council's Fiscal Year 2002-03 budget for contributions to non profit organizations located outside of Morgan Hill. Should the Council wish to sponsor MACSA's Gala Event, the Council can authorize the transfer of funds from the General Fund Balance to the City Council's Community Promotion Account (010-42248-1220) to cover whatever level of funding the Council deems would be appropriate for this request and any other requests that may come before the Council.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

### **PROPOSED AMENDMENTS TO THE SANTA CLARA COUNTY CITIES ASSOCIATION BYLAWS**

#### **RECOMMENDED ACTIONS:**

**Review** and **Forward** Council Recommendation(s) regarding proposed Cities Association Bylaw amendments

#### **EXECUTIVE SUMMARY:**

Kris Casto, President of the Santa Clara County Cities Association, is requesting that the 15 member cities review and approve proposed amendments to the Cities Association Bylaws. Staff has attached Ms. Casto's memo dated November 7, 2002 to the Cities Association Board that highlights the proposed changes. At its November 14, 2002 meeting, the Cities Association Board approved several relatively minor amendments to the Bylaws. The proposed amendments are also attached for Council review, discussion and recommendation. It has been requested that each City notify the Cities Association regarding its review and approval of the Bylaws as soon as possible.

**FISCAL IMPACT:** No Fiscal Impact. The time necessary to prepare this report is accommodated in the Council Services and Records Manager's Operating Budget.

**Agenda Item # 16**

**Prepared/Approved  
By:**

**Council Services &  
Records Manager/  
Elected City Clerk**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: December 4, 2002***

**Agenda Item # 17**

**Prepared/Approved  
By:**

**Council Services and  
Records Manager/  
City Clerk**

**Submitted By:**

**City Manager**

### **REVIEW OF CITY COUNCIL COMMITTEES AND APPOINTMENTS TO OUTSIDE AGENCIES**

#### **RECOMMENDED ACTIONS:**

1. **Review** the current list of assignments and appointments and make suggested changes to the Mayor
2. Mayor to **Appoint** Council Members to Serve on the Various Council Committees and Outside Agencies Subject to City Council Approval
3. **Direct** the City Clerk to notify the appropriate agencies of amended assignments

#### **EXECUTIVE SUMMARY:**

In 1994, the City Council adopted a policy that sets forth the procedures for assigning Council Members to outside agencies and committees in order to ensure that the interests of the City are represented. The policy states that the Mayor shall have priority in the selection of Outside Agencies, followed by seniority. Expertise and special interests of Council Members should be considered, including a situation where the Council Member rotates into a leadership role such as Chairperson to an outside agency. Attached and marked as Exhibit "A" is adopted Council Policy CP 94-01.

The adopted policy states that assignments to outside agencies shall be made annually, by the Mayor, subject to confirmation of a majority vote of the City Council. Staff has scheduled this item for Council consideration in order to allow Council Members the opportunity to review current assignments and to identify assignments that Council Members may wish to rotate into or out from. Attached for Council assistance is Exhibit "B" which lists Council Committees and Outside Agency Assignments and Exhibit "C" which details the agencies' name, purpose of the agency, how often the committees/outside Agencies meet, the current Council delegate and the staff representative(s).

Once the City Council have identified outside agency assignments, staff will notify the appropriate agency and advise them of the changes.

**FISCAL IMPACT:** The time preparing the staff report is accommodated by the Council Services and Records Manager's operating budget.



**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL  
REDEVELOPMENT AGENCY MEETING  
MINUTES - NOVEMBER 20, 2002**

**CALL TO ORDER**

Mayor/Chairperson Kennedy called the meeting to order at 6:01 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Sellers, Tate and Mayor/Chairperson Kennedy  
Absent: Council/Agency Member Chang

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agenda Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session items, indicating that Closed Session Item 1 would not be called this evening.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

**2.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

**3.**

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code 54957

Public Employee Performance Evaluation: City Attorney

Attendees: City Council, City Attorney

**4.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Case Name:	City of Campbell et al. v. CalPERS
Case Number:	OAH 5119
Attendees:	City Attorney, City Manager

**5.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Case Name:	Allivato v. City of Morgan Hill et al.
Case Number:	Santa Clara County Superior CV 810111
Attendees:	City Attorney, City Manager

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairperson Kennedy adjourned the meeting to closed session at 6:03 p.m.

**RECONVENE**

Mayor/Chairperson Kennedy reconvened the meeting at 7:00 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairperson Kennedy, Bob Eltgroth, Chairman of the Bicycle Advisory Committee, led the Pledge of Allegiance.

**PROCLAMATION**

Mayor Kennedy presented Caroline Fahmy and Mark Paxton, Educational Data Systems, with a proclamation, recognizing them for attaining a Green Business status for their exemplary efforts in protecting the environment.

Carol Berg stated her appreciation of the Council's continued support for the Green Business Program. She said that Educational Data Systems has taken numerous steps to save energy, water, conserve resources, and prevent pollution. She felt that they have gone beyond their business borders, noting that they renegotiated their contracts for their janitorial and pest control services and required the use of green cleaning products and integrated pest management principals. She felt that

they were ambassadors to their clients and promoted ways to be a green business/organization. She presented them with a Green Business Certificate.

## **PRESENTATIONS**

Mayor Kennedy indicated that one of the projects that the City is proud of is the Villa Ciolino Housing Project which has won both state and national awards.

Business Assistance and Housing Services Director Toy indicated that the City would be presenting the National Association of Housing Rehabilitation Officials (NAHRO) Award of Excellence to South County and Weston Miles Design for their work on the Villa Ciolino Project. The award recognizes program innovation and affordable housing, recognizing the complexity of a project and the hard work that went into it. He indicated that the Villa Ciolino project replaced 20 substandard trailers and rental units with 42 units of affordable housing, working with a variety of regulatory agencies and putting together financing, as well as working through Measure P. He indicated that this is one of four NAHRO awards presented nationwide and is prestigious within the industry.

Mayor Kennedy presented Dennis Lalor, South County Housing; and Charles Weston, Leslie Miles and Ian Blackwood, Weston Miles Design, with a plaque from NAHRO, a national award for the Villa Ciolino housing project.

Mark Klemensik, assistant operating officer with the Santa Clara Valley Water District, stated that he was responsible for the watershed area in South County. He indicated that Carol Fredrickson, field operations manager, was also in attendance to address winter preparedness.

Ms. Fredrickson addressed the winter storm situation and the PL566 Flood Project, the Upper Llagas Creek Project. She addressed the winter weather forecast, routine stream maintenance program, the flood season maintenance and operations, and the emergency operations that have been conducted and will be undertaken this winter. She indicated that the annual preparedness meeting will be held with other agencies on Thursday, November 21, 2002. She indicated that the Water District has real time information on the website for flows in reservoirs from stream gages.

Mayor Kennedy inquired if there was anything that residents can do to prepare for winter storms?

Ms. Fredrickson recommended that citizens contact the Water District before commencing any work. She also recommended that citizens be prepared and know where sand bags can be found to prevent erosion or flooding, indicating that they can be found at the City's Corporation Yard and the El Toro Fire Station.

Mr. Klemensik indicated that the Water District's website is a good place to find information, including links to weather service to stay up with what is happening during a storm. He addressed Measure B, the Clean Safe Creeks Program, that passed on November 5, 2002 that assists in raising the level of services in South County without additional monies. He stated that Measure B also helps the PL566 project. He addressed funding situations and limitations. He indicated that the Water District is moving forward with getting rights of entry. He indicated that almost all rights of ways for the diversion channel have been purchased. To keep the project on schedule, the Water District

hired a contractor to evaluate the traffic impacts for the environmental documents. He informed the Council that three community workshops have been held and that another one is planned in June 2003. He felt that the Water District and the City of Morgan Hill have good communications on projects and that it has been a pleasure working with the City.

Council Member Sellers said that the remarks from the Water District's representatives were more discouraging than he was hoping for but that these are due to federal and state issues that the City has not been able to affect. However, he was somewhat encouraged by hearing about the proposition funds. He agreed that the City has had good relationships with legislators and that he meets with them on a variety of issues. The City is establishing a relationship with the new members of congress as well as new assembly members. He requested that Mr. Klemensik/Water District join the City in this effort in order to help keep Proposition 50 moving forward. He said that the City is redoing its downtown plan and that this is directly affected by this issue because the City will need to construct buildings to flood standards that far exceed those in place when the PL566 goes through. He wanted to make sure that there is a close working relationship between the Water District and the City in the next few months and years to complete the PL566 project.

Mayor Kennedy indicated that he and Council Member Tate meet with the Water District on a quarterly basis. He said that a meeting was held last Friday. At that time, it was suggested that all elected legislators be invited to the next meeting to keep the focus on the need for funding to keep this project moving forward.

### **CITY COUNCIL REPORT**

Mayor Kennedy indicated that it was his understanding that Council Member Chang injured her ankle and has been taken to the emergency room at St. Louise Regional Hospital. Therefore, she would not be able to present her report this evening

### **CITY MANAGER'S REPORT**

City Manager Tewes indicated that a couple of weeks ago, staff came before the Council and suggested that the continuing economic recession in Silicon Valley is having an impact on local revenues. He said that since the Council adopted the budget, the City would have another \$600,000 revenue shortfall. In light of this fact, the Council recently directed staff to take some steps to address savings and use reserves. He stated that in the past week, the state legislative analyst reported that the State realizes that they are \$6 billion off and that the projection for next year is \$22 billion. He said that the City needs to remain vigilant about the potential for state actions that would reduce City revenues even further. He felt the City needs to anticipate what the State legislature and the Governor will be asking for in terms of further reductions in city revenues next year.

### **CITY ATTORNEY'S REPORT**

City Attorney Leichter indicated that she distributed the Monthly Litigation Summary. She addressed the status of the San Jose Christian College case, stating that the matter is currently at the 9<sup>th</sup> Circuit Court of Appeal. The matter was fully briefed as of last week and should be set for hearing in early spring. She indicated that the City received amicus support from the California

League of Cities, with 61 cities signing in support of the City's position as well as the American Planning Association. She further indicated that a law firm from Boston, Massachusetts filed an appeal brief on the City's behalf. She stated that the City has nationwide support going into this and that staff is hopeful of the outcome after the hearing in March.

### **PUBLIC COMMENT**

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda.

Gerry Lyon, presented a petition for stop signs on Spring Avenue, between Del Monte and DeWitt Avenues. He stated that the petition addresses communication with Scott Creer on the subject. Mr. Creer advises him that a study was conducted in April 2000 where it was found that 1,000 cars a day travel along Spring Avenue. Since that time, the traffic flow has increased substantially attributed to population growth south and west of DeWitt and Spring Avenue and the annexation of properties on the south side of Spring and the Butterfield extension. He stated that traffic is now using Spring Avenue as a by path to go from DeWitt onto Butterfield, causing a large amount of traffic in the morning and afternoon rush hours at high rates of speed. He indicated that area residents are requesting the installation of stop signs to help with the traffic problem being faced. He said that last year, one accident occurred at the corner of Willow Creek Drive and Spring Avenue, causing a serious injury. He stated that there are 10 side roads that feed onto Spring Avenue between Del Monte and DeWitt. In addition to this, there have been sidewalks installed and the street has been widened. He stated that the police department has advised area residents that they cannot patrol this street because they are visible to traffic. Residents are more concerned about the impact on the large number of joggers and for the safety of children at play. He felt that it would be appropriate to install at least one stop sign at one of the middle intersections on Spring in order to slow traffic down and provide a safe access onto Spring Avenue.

City Manager Tewes agreed to meet with Mr. Lyon and the neighbors to discuss their issues. He would report back with a recommendation to the Council.

No further comments were offered.

### ***City Council Action***

#### **CONSENT CALENDAR:**

Mayor Kennedy requested that items 4 and 7 be pulled from the Consent Calendar.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** Consent Calendar Items 1-3, 5, 6 and 8-25, as follows:*

1.        **OCTOBER 2002 CITY COUNCIL FINANCE AND INVESTMENT REPORT**  
          **Action: Accepted and Filed Report.**
2.        **BI-ANNUAL VACANCY RATE SURVEY**

**Action:** **Established** the Bi-Annual Vacancy Rate for October 2002, as Recommended by the Planning Commission.

3. **FOOD DRIVE CO-SPONSORSHIP**

**Action:** **Directed** Staff to Administer a Second Harvest Food Drive.

5. **SPORTS MANAGEMENT GROUP CONSULTING FEE AND SCOPE OF WORK FOR AQUATICS COMPLEX PROJECT**

**Action:** **Authorized** the City Manager to Execute a Contract in the Amount of \$45,000 With a 10% Contingency to Provide Consulting Services With Design Review, Market Analysis, Fee Structure, Operational Structure, and Business Plan Development for the Aquatics Complex Phase I.

6. **COMMUNITY AND CULTURAL CENTER PROJECT AND COMMUNITY PLAYHOUSE OCTOBER CONSTRUCTION PROGRESS REPORT**

**Action:** **Information** Only.

8. **CHANGE ORDER APPROVAL FOR ADDITIONAL WORK ON THE 2001-2002 ROADWAY REPAIR AND SLURRY SEAL PROJECT**

**Action:** **Approved** Change Order in the Amount of \$30,250 for Additional Work on the 2001-2002 Roadway Repair and Slurry Seal Project by Contractor Silicon Valley Paving.

9. **APPROVAL OF CONTRACT CHANGE ORDER FOR MAIN AVENUE WELL DRILLING PROJECT**

**Action:** **Approved** a Contract Change Order in the Amount of \$25,908 for the Construction of the Main Avenue Well Drilling Project to Increase Size of Casing.

10. **COUNCIL RESOLUTION SUPPORTING GRANT FUNDING FOR SIGNING AND STRIPING FOR CLASS II BIKEWAYS - Resolution No. 5625**

**Action:** **Adopted** Resolution No. 5625 Supporting the Signing and Striping for Class II Bikeways as the City's 2003-2004 Bicycle Transportation Account (BTA) Project Candidate; and 2) **Appropriated** 10% Matching Funds of Total Project Cost for Construction. The Estimated Total Project Cost is \$86,000. In Addition, City Shall Cover Costs Associated With Planning and Design.

11. **FIRST QUARTER REPORT, 2002-2003 WORKPLAN**

**Action:** **Accepted** Report.

12. **EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES**

**Action:** **Authorized** the City Manager to Execute an Extension to the Consultant Services Agreement for Contract Planning Services at a Cost Not to Exceed \$30,000.

13. **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) 2002 QUARTERLY REPORT NO. 4**

**Action:** **Accepted** and **Filed** the RDSCS Fourth Quarter Report.

**14. WAIVE READING OF ORDINANCE NO. 1585, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1585, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving of a Development Agreement, DA-02-04: Sunnyside-Quail Creek for Application MP 01-11: Sunnyside-South Valley Developers.

**15. WAIVE READING OF ORDINANCE NO. 1586, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1586, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving Zoning Amendment ZA-02-06 Watsonville-City of Morgan Hill RDA Changing the Zoning Designation From Public Facilities to R2-3,500 on a 1.55 Acre Site. (APN 767-23-017).

**16. WAIVE READING OF ORDINANCE NO. 1587, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1587, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to the Precise Development Plan Established under Ordinance No. 1522, New Series for a 62-unit R-1(7,000) & R-2 (3,500)/RPD Single-family Residential Planned Development Located on the South Side of Llagas Avenue, and the West Side of Hale Avenue. (APNs 764-32-005, 010 & 012).

**17. WAIVE READING OF ORDINANCE NO. 1588, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1588, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Development Agreement, DA 02-06 for MP 01-05: Llagas-Delco (APN 764-32-005, 010 & 012).

**18. WAIVE READING OF ORDINANCE NO. 1589, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1589, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.08.010 (Adoption of the California Building Code and the Uniform Building Code), 15.08.020 (Short Title), 15.08.040 (Additions, Amendments and Deletions), 15.08.090(A) (Section 310.7 Amended--single-room Occupancies (SRO)), 15.08.100(A) (Section 2320.11.3, Item 5, Deleted--gypsum Board Use), 15.08.110(A) (Section 2320.11.3, Item 7, Amended--conventional Construction Provisions (Bracing)), 15.08.120(A) (Section 1900.4.4 Amended-- Minimum Slab Thickness), 15.08.130(A) (Section 1806 Amended-- Foundation Reinforcement), 15.08.140(A) (Section 3205.2 Amended--projections and Clearance), 15.08.150(A) (Section 3205 Amended by Adding Section 3205.8--Vertical Supports), 15.08.160(A) (Section 3205.3 Amended--Marquee Length), 15.08.170(A) (Section 3403.2 Amended-- Suspended Ceiling Upgrade), 15.08.190(A) (Chapter 13 and Appendix Chapter 13 of the 1997 Uniform Building Code

*Deleted), 15.08.200(A) (Table 1-A of the 1997 Uniform Building Code Deleted), and 15.08.210 (Sections 904.2.2 Through 904.2.8 of the 1997 Uniform Building Code Deleted) of Chapter 15.08 (Building Code) of Title 15 (Buildings and Construction) of the Morgan Hill Municipal Code, Adopting The 2001 Edition of the "California Building Code" Volumes 1, 2, & 3, Including Appendix Chapters 3 Division II, 4, 15, 18, 31, 33 and 34, with Amendments, as the Building Code of the City of Morgan Hill.*

**19. WAIVE READING OF ORDINANCE NO. 1590, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1590, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.12.020 (Adoption of the National Electrical Code) and 15.12.060 (Article 90-4 of the 1996 National Electrical Code), and Deleting Section 15.12.040 (Additions, Amendments and Deletions) of Chapter 15.12 (Electrical Code) of Title 15 (Buildings and Construction) of the Morgan Hill Municipal Code and Adopting the 2001 Edition of the "California Electrical Code," Published by the National Fire Protection Association, with Amendments, as the Electrical Code of the City of Morgan Hill.

**20. WAIVE READING OF ORDINANCE NO. 1591, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1591, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.16.020 (Adoption of the Uniform Mechanical Code) And 15.16.040 (Amendments and Deletions) of the Morgan Hill Municipal Code and Adopting the 2001 Edition of the "California Mechanical Code," and the 2000 Edition of the "Uniform Mechanical Code," Published by the International Association of Plumbing and Mechanical Officials, with Amendments, as the Mechanical Code of this City.

**21. WAIVE READING OF ORDINANCE NO. 1592, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1592, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Sections 15.20.010 (Short Title), 15.20.020 (Adoption of the California Plumbing Code and the Uniform Plumbing Code), 15.20.030 (Scope, Organization, Enforcement, Fees and Inspections), 15.20.040 (Amendments and Deletions), 15.20.050 (Section 604.2 Amended–Water Lines and Fittings), 15.20.060(A) (Section 608.2 Amended–Pressure Regulators), 15.20.070(A) (Sections 609.3.1 and 609.3.2 Amended–Piping Under Slabs), 15.20.080(A) (Section 710.1 Amended–Backwater Valves), and 15.20.100(A) (Section 1001.0 Amended–Vents and Traps) of Chapter 15.20 (Plumbing Code) of Title 15 (Buildings and Construction) of the Morgan Hill Municipal Code to Adopt the 2001 Edition of the "California Plumbing Code," and the 2000 Uniform Plumbing Code Published by the International Association of Plumbing & Mechanical Officials, with Amendments, as the Plumbing Code of this City.

**22. WAIVE READING OF ORDINANCE NO. 1593, NEW SERIES**



**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1593, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Amending Section 1.01.010 (Adoption of the Morgan Hill Code), of Chapter 1.01 (Code Adoption) of Title 1 (General Provisions) of the Morgan Hill Municipal Code to Include the Current Editions of the California Building, Administrative, Electrical, Mechanical and Plumbing Codes.

**23. WAIVE READING OF ORDINANCE NO. 1594, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1594, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Enacting Chapter 18.80 of the Municipal Code of the City of Morgan Hill Regarding Development Agreements.

**24. WAIVE READING OF ORDINANCE NO. 1595, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1595, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving an Amendment to a Precise Development Plan for a 164 Unit R-1(7,000) & R-2 (3,500)/RPD Single-family Residential Planned Development Located on the North Side of East Central Avenue at Calle Hermosa. (APN 726-27-037).

**25. WAIVE READING OF ORDINANCE NO. 1596, NEW SERIES**

**Action:** **Waived** the Reading, and **Approved** Ordinance No. 1596, N.S. and **Declared** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: An Ordinance of the City Council of the City of Morgan Hill Approving a Development Agreement, DA-02-05: East Central - Central Park for Application MP-01-10: Central - Central Park Development, LLC.

**4. PERFORMANCE MEASURE UPDATE - NOVEMBER 2002**

Mayor Kennedy stated that he was pleased to see the City is moving forward with performance measurements as it is a good start. He thanked staff for this effort.

**Action:** On a motion by Mayor Pro Tempore Carr and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Received** and **Filed** the update.

**7. SOUTH VALLEY CIVIC THEATRE LEASE OF THE MORGAN HILL COMMUNITY PLAYHOUSE**

Mayor Kennedy inquired as to the availability of the theater to other groups in addition to South Valley Civic Theatre who may want to use the facility.

Business Assistance and Housing Manager Maskell responded that South Valley Civic Theatre is

clearly aware that they do not have the exclusive use of the theater. She indicated that South Valley Theatre will have priority over the calendar each year. They will reserve their dates and everyone else would be able to select their dates. On the days that they do not have performances or have performances in the evening, South Valley Theatre would be pushing their sets past center states, making the front portion of the stage available to others.

Mayor Pro Tempore Carr indicated that South Valley Theatre would have a need of the facility approximately 125-days a year for their performances.

Council Member Sellers felt that there were other opportunities to rent the theater to others even when in use by South Valley Theatre.

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Carr, the City Council, on a 4-0 vote with Council Member Chang absent: 1) **Approved** the Lease Agreement with South Valley Civic Theatre ("SVCT") for Use of the Morgan Hill Community Playhouse ("Playhouse"); and 2) **Authorized** the City Manager to Execute the Lease Agreement and do Whatever is Necessary to Effectuate the Agreement.*

## ***Redevelopment Agency and City Council Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by Agency/Council Member Tate and seconded by Agency/Council Member Sellers, the Redevelopment Agency Board/City Council, on a 4-0 vote with Vice-chairperson/Council Member Chang absent, **Approved** Consent Items 26 - 28, as follows:*

**26. OCTOBER 2002 REDEVELOPMENT AGENCY FINANCE AND INVESTMENT REPORT**

**Action:** ***Accepted** and **Filed** Report.*

**27. COMMUNITY CENTER LAND TRANSFER**

**Action:** ***Authorized** the Executive Director to Prepare and Execute a Grant Deed Transferring Ownership of the Land Comprising the Site for the Morgan Hill Community and Cultural Center at 17000 Monterey Road, Gavilan College Satellite Campus at 17060 Monterey Road, and the Morgan Hill Community Playhouse at 17090 Monterey Road, From the Morgan Hill Redevelopment Agency to the City of Morgan Hill; 2) **Authorized** the City Manager to do all That is Necessary to Accept the Property on Behalf of the City; and 3) **Directed** the City Clerk to Have the Grant Deed Recorded in the Office of the County Recorder of Santa Clara County.*

**28. JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF NOVEMBER 6, 2002**

**Action:** ***Approved** the minutes as written.*

## ***City Council Action***

### **PUBLIC HEARINGS:**

**29. DEVELOPMENT AGREEMENT AMENDMENT DAA 00-05: MALAGUERRA-MANCIAS Ordinance No. 1597, New Series**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. Julian Mancias, spoke on behalf of his father who owns the property, requesting Council approval of the extension of time. He said that there was a problem with the thru road that was changed to a cul de sac. He said that a lot of time has been spent to clear the dilemma. He stated that he would be diligent to ensure project completion within five months.

No further comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Development Agreement Amendment (DAA) Ordinance No. 1597, New Series.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council **Introduced** Development Agreement Amendment (DAA) Ordinance No. 1597, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1530, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP 99-26: MALAGUERRA-ANSUINI/MANCIAS TO INCORPORATE A FIVE-MONTH EXTENSION OF TIME FOR SEVEN BUILDING ALLOTMENTS IN PHASE ONE AND A SIX-MONTH EXTENSION OF TIME FOR SIX BUILDING ALLOTMENTS IN PHASE TWO. (APN 728-35-016; 728-35-017) by the following roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.***

### **OTHER BUSINESS:**

**30. REPORT ON ACCOMPLISHMENTS AND PLANS OF THE MORGAN HILL COMMUNITY HEALTH FOUNDATION (MHCHF) AND THE JOINT PLANNING TASK FORCE**

Bill Brown thanked Mayor Kennedy, Council Member Chang and City Manager Tewes for attending a meeting held on November 18, 2002 at Woodland Mobile Homes in order to explain to residents the status of medical care in Morgan Hill and what the Foundation is trying to do. He encouraged other members of the public who can put a group together and are interested in finding out more about medical services opportunities to contact the Foundation. He indicated that since

the last meeting with the Council, substantial progress has been made. He said that a Joint Task Force Committee has been established and has been busy putting together a report. He stated that the Joint Task Force Committee is made up from representatives from the hospital and representatives from the Foundation Board, indicating that this will become a permanent committee. He said that the Council will be receiving reports on the status of the Foundation's program. He indicated that Joe Mueller will address goals, strategies and accomplishments; John Ray, Foundation Director, will present a report on the hospital and Ted Fox will address the current initiatives. He stated that the last time the Foundation and Council met, the Foundation was moving in two new doctors, Drs. Gilpin, who located in the medical office building at the former St. Louise site, and are practicing OB-GYN. He encouraged those who have need of such service to talk with them and give them an opportunity. He said that the Foundation is in discussion with other physicians.

Joe Mueller reviewed the plans and goals for the Foundation and how it plans to get there. He highlighted the vision statement. He addressed the short term goals (attained within one year) as follows: 1) recruit six more physicians; 2) establish urgent care services with evening and weekend hours; and 3) reestablish basic lab and x-ray services. He addressed the long term goals (3-10 year period) as follows: 1) recruit 10 more primary care physicians; 2) recruit specialists to meet 30% of the community's need within three years and 60% within five years; 3) open an outpatient surgery service at the former St. Louise Hospital site; and 4) open an acute in patient unit at the former St. Louise hospital site. He addressed the impediments being faced in reaching these goals (e.g., shortage of primary care physicians; lower than normal use of local services by area residents; high costs; difficulty in changing employee benefit plans to allow use of local providers; health care economic and regulatory environment; and slow growth due to the City's residential development control system). He indicated that one development that will help the City is the development of the mid-Coyote Valley urban reserve as potential customers for Morgan Hill medical providers.

Mr. Mueller said that the Foundation will work with the various stake owners in order to work collaboratively with the main focus of physician recruitment. The Foundation is doing this in partnership with St. Louise Regional Hospital. He said that physician recruitment is an expensive proposition as it could cost approximately \$150,000-\$250,000 to bring a physician into the community. The Foundation will need to work with the local community to build the market share. It needs to be assessed why residents go north for physician care and determine what needs to be done to try to change this pattern. He felt that this can be achieved by increasing communications with residents and employers and improve marketing/advertising. He stated that the Foundation is willing to talk to any groups in town about this subject. The Foundation will work with local employers so that employees can have affordable choices that will allow use of local facilities. The Foundation will work with St. Louise Regional Hospital and other providers to ensure that the needs of all residents are met, including fundraising efforts. He addressed the accomplishments of the Board.

John Ray, Executive Director for the Foundation, addressed the Morgan Hill Community Health Services Plan, the product of the Joint Planning Task Force. He informed the City Council that Ted Fox, George Chiala, Joe Dale, George Guglielmo, Glenda Garcia, Joe Mueller, Dr. Ted Roussere and he are members of the Task Force. He addressed the key aspects of the Community Health Services Plan. He said that the Task Force believes that the plan demonstrates the mutual commitment of both St. Louise Hospital and the Foundation in working together to meet the medical

needs of the residents of Morgan Hill. He stated that the Plan envisions rebuilding the healthcare system in Morgan Hill. He emphasized that if medical services are not used, they will not be made available. He said that by providing good medical services, citizens need to be encouraged to use them. He said that there is a shortage of doctors, registered nurses and trained x-ray and laboratory technicians in California. He indicated that a process and the establishment of the Morgan Hill Community Advisory Board, a standing committee of St. Louise Hospital, has been established as the forum to make decisions in order to meet the needs of the residents of Morgan Hill.

Ted Fox, St. Louise Regional CEO, thanked all members of the Joint Planning Task Force. He stated that these individuals worked many uncompensated hours and worked through a lot of issues to determine the needs and what can be done to work forward and making these needs come to the fore front. He provided the Council with current initiatives that include physician recruitment in the Morgan Hill market, urgent care, and lab and x-ray as part of the strategic plan. He addressed current initiatives as follows: 1) physician recruitment, indicating that Drs. Brian and Maria Gilpin are a great addition to the hospital OB-GYN medical staff. 2) reestablishment of urgent care services in the medical office building. 3) Reviewing the possible establishment of setting up the x-ray and laboratory services in the medical office building. He said that fundraising initiatives will be necessary in order to purchase the necessary lab and x-ray equipment. 4) Planning for the former St. Louise Hospital facility. He indicated that they are in the process of assessing the physical condition of the hospital and are in the process of looking at ambulatory care services and post acute care services that can be offered in this facility. 5) The hospital is actively engaged in negotiations with a variety of health care providers as possible tenants. He said that this has been a classic case of community-based planning and is what hospitals need in order to do it right. He felt that the Task Force and the community are moving in the right direction.

Mr. Brown informed the community that when the Foundation first began, they were in an adversarial position with the managers of St. Louise Regional Hospital which was Catholic Healthcare West (CHW). He said that the hospital was original built by the Daughters of Charity who turned the management over to CHW. He indicated that in December 2001, the Daughters of Charity took back the hospital. He said that there has been a cooperative arrangement with Mr. Fox and his fellow workers and have made great progress. He thanked St. Louise Regional Hospital, especially the Daughters of Charities, for their sensitivity and their help in the community. He felt that good progress has been made and continues to look forward in making more progress.

Mayor Kennedy opened the floor to public comment.

Marion Smith stated that she was not here to speak for herself or her husband this evening as they have had their problems with the move of the San Jose Medical Group from Morgan Hill. She indicated that she approves of the proposal and hopes that the urgent care facility is built as quickly as possible as it is desperately needed in Morgan Hill. She has heard the Council state that it needs the support of the people of Morgan Hill, noting that the citizens in Morgan Hill have supported several Council actions such as building the hospital, recycling program, recreation division, etc. She inquired if the citizens would have the leadership of the entire Council that it deserves on the medical problem. She requested that each council member state their honest opinion as to whether they would work hard and become a leader for medical services in Morgan Hill or whether they do not want it.

John Legal, representing Hacienda Valley Mobile Estates, applauded the individuals who are trying to bring medical services back to Morgan Hill. He also applauded the Council for working toward this goal. However, he felt that this goal was working very slowly and needs to be sped up. He said that a lot of veterans who have returned from wars are now aging. He said that the community needs to make sure that it is taking care of these individuals. He has spoken to some of the residents at Hacienda Valley Mobile Estates since the Monday meeting, indicating that the residents would like to hear about this issue. Residents would like to know if there are local physicians and medical care. He stated that Hacienda Valley Mobile Estates would like a presentation similar to that made at the Woodland Mobile Estates.

Council Member Sellers noted that the Council is just accepting the report and would weigh on it more as it progresses. He stated that the discussion in the report about physician recruitment reminded him of the efforts the Council undertook 10-15 years ago in the downtown area and still undertaking to bring in more businesses. He was pleased to hear that the Foundation is talking to doctors who are willing to relocate to Morgan Hill and bring their patient base with them. He encouraged all sides in the negotiations to try to be circumspective because there is a narrow window where the community could start to build a critical mass of physicians. If this is not done quickly, the City would be in a situation where there would be fewer doctors a year from now than we have today. He applauded the effort and stated that he would like the Council to do whatever it can to support this effort. He wanted to move quickly and that all sides understand how narrow this window period is. He said that he had the pleasure of serving as one of the members on the medical services board. He knows that there is a tremendous amount of work that each Council member does individually in their different capacities, not all being visible. He noted that two Council members have very visible roles in medical services. It was his feeling that all Council members have been very active in this regard. He noted that San Jose is a much larger city and is losing its downtown hospital. He stated that much larger entities have done less than Morgan Hill has. He stated that the Council will keep pushing forward, indicating that the Council feels as anxious as everyone who has spoken this evening. He stated that he would like to entertain a discussion in contract negotiations with city employees and to do what it can through the City-School Liaison Committee to talk with the School District as well about local medical plans. He appreciated the report and looks forward to helping implement it.

Mayor Kennedy thanked all of the members from Morgan Hill Community Health Foundation, representatives from St. Louise Regional Hospital and Daughters of Charity, and the citizen volunteers and community members who worked together on this report. He felt that it was a good start and that good progress has been made. With the closure of the San Jose Medical Group facility, urgent care facility and the continued loss of doctors, it places Morgan Hill in a crisis situation. He felt that there is a void/vacuum of medical services in Morgan Hill. He understands that citizens can use the St. Louise Regional Hospital in Gilroy or Kaiser Santa Teresa Hospital in San Jose. However, for many citizens, this is difficult if not a life threatening distance to travel. He said that a Sunday San Jose Mercury News article talks about the fact that medical and health delivery systems in the country are dysfunctional and in a crisis level. He said that individuals expect more and more and are not willing to pay the cost to get the services that are expected. He felt that citizens have been insulated by employers and insurance providers from the actual cost of services. If the community wants local doctors to be successful, citizens need to use local doctors. He noted that many of us are going through the decision on what medical services to select.

Mayor Kennedy suggested that the Committee take actions that would help bring medical services to the community. He recommended that health fairs be held in Morgan Hill, making a list of doctors available in Morgan Hill, publishing information on local providers, and describe what decisions can be made that would help utilize local doctors. He felt that there were a lot of things that need to be focused on to address the immediate concerns of Ms. Smith. In response to Ms. Smith's comment, he stated that it has not just been two Council members working on medical services and that the entire Council has worked toward this effort. He felt that all Council members shared the concerns that have been raised. He encouraged community members who have choices to use local medical service providers. If not used, the community will lose them.

Council Member Tate responded to the question about leadership on medical services in the City of Morgan Hill. He said that the Council went through a process where it established a community health foundation. He indicated that a couple of Council members have been assigned to this foundation and therefore are more visible. The Council has been meeting regularly with the Foundation who reports to the Council on a regular basis. He said that the Council is looking to the Foundation to provide leadership on medical services. The Council has heard the report from the Foundation and where they would like to go with medical services. He heard a frustrating comment that the City is not getting there quick enough and he shares this frustration. However, he believes that the Foundation is moving as fast as they can. He said that it is the Morgan Hill Community Health Foundation that has the leadership role. In the report presented this evening, it was indicated that there are a lot of citizens in the community who do not choose to use local medical services. He asked if it was the business of the city council, representing local citizens, to try and market change in habits in order to use local services. He said that this is part of the plan that the Council is looking at addressing. He noted that Mayor Kennedy and he have made pleas for citizens to use local medical services. He said that the Council represents the citizens but cannot force citizens to use things that they do not want to use. He felt that the question of what is the role of government and how far does it go if the citizens do not choose to use the services is a philosophical one.

Mayor Pro Tempore Carr commented on what has been prepared and presented this evening. He felt that one thing of value is that there are finally measurable goals attached to policy statements that the Council adopted over two years ago. He said that these measurable goals would help the Council in moving forward. He noted that dates have been identified in the report in order to assess what is being done in the area of increasing medical services and how to assess whether the city is moving in the right direction. He urged the Foundation to continue its efforts and step up its efforts in the area of fundraising so that the Council can allocate the money earmarked for medical services on a matching basis. The Council would like to send these monies to the Foundation for doing the right things that have been laid out in the report. He felt that the Council needs help from the Foundation and the community in order to do so. He said that he would keep the goals attached to the policy objectives close at hand and would monitor them for assessment to make sure that it is moving in the right direction.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Received** and **Accepted** Report on MHCHF's Goals, Strategies and Accomplishments.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the*

*City Council, on a 4-0 vote with Council Member Chang absent, **Received** and **Accepted** the Morgan Hill Community Health Services Plan.*

**Action:** *It was the consensus of the City Council **to consider** agenda item 33 at this time.*

### **33. NEW MORGAN HILL POLICE FACILITY**

City Manager Tewes presented the staff report and indicated that there is an adopted program for the police station. Under the adopted program established in the capital improvement program, the City would be acquiring a site this fiscal year, designing the building the next year, constructing in the following year and opening it for operation in fiscal year 2005/06 (3 years from now). He indicated that a portion of the facility would be paid by new growth through development impact fees and a portion of the facility would be paid by the existing community through allocations of the general fund. Because the project would require more money to construct than can be saved, both projects would require some financing with required borrowing to have annual debt service to be paid out of impact fees collected and by annual general fund budget appropriations. He indicated that a new facility would cost approximately \$8.4 million in today's dollars.

City Manager Tewes informed the City Council that the preferred site for the new police station adjacent to the court house may no longer be viable. He indicated that there is a different option for moving into an existing industrial building in an industrial area that has been presented by the owners of the building. He stated that staff is not asking that the Council accept any real estate offers, approve any particular financing schemes nor adopt a budget. However, should the Council be interested in pursuing the new option, staff would need to perform additional investigations on the costs to retrofit the building for a police station, negotiate appropriate transactions, and arrange for the financing earlier than would have been conducted in the currently adopted program. He addressed the advantages and disadvantages to building a new building or relocating the police station to an existing industrial building on Vineyard Boulevard. He indicated that the Chief of Police is recommending that the Council proceed with the new option to convert the existing industrial building as a police facility. He addressed the financial implications for both options. He said that staff is not proposing a financing scheme but presenting it in terms of magnitude and to illustrate the differences between the two proposals. He requested Council discussion regarding the community's expectations. If the Council chooses to continue with the adopted program, staff would continue to identify potential sites and begin the acquisition process on schedule. Should the Council choose to explore the existing industrial building option, staff would obtain more refined estimates of the cost to retrofit the facility for police needs. Staff would also begin planning for the surplus space and negotiate acquisition costs.

Council Member Tate stated that he did not see information about the sale of the existing police facility and factoring this into any cost recovery.

City Manager Tewes stated that the adopted financing plan will have the sale of the existing police facility and that the proceeds from the sale would return to the Redevelopment Agency for redevelopment purposes. He indicated that Redevelopment Agency funds cannot be used to finance a police facility.



Council Member Tate felt that there would be a benefit to the Agency from the sale of the existing property.

Mayor Kennedy opened floor to public comment.

Mark Brazeal indicated that he was speaking on behalf of the Police Officers Association, Community Services Officers Association, and members of AFSCME who are working in the current police facility. He reaffirmed the information before the City Council. He said that a few years ago, when a plan was being developed for civic improvement, it was a nice idea to have a new police facility. In 2002, a nice idea has become a necessity for three reasons: 1) space, 2) security, and 3) compliance. He indicated that police personnel are unable to work efficiently in the existing facility. The existing facility is cramped and was not designed for the type of work that needs to be done. He stated that there is insufficient space for ongoing training in terms of defensive tactics. He said that there is insufficient storage, creating security challenges and not enough interview rooms. Staff currently operates with two interview rooms, resulting in inadequate facilities to separate victims from suspects, juveniles from adults, and men from women. He indicated that guests with non secured business walk through secured area with access to confidential information. Off site evidence storage is not the norm and needs to be changed. The existing holding facility ventilation system is shared between the evidence room, the holding facility and the watch commander's office. He expressed concern with air borne pathogens. He indicated that the current facility is not in compliance with the Americans with Disability Act (ADA). He felt that a new police facility is needed and that it is felt that the new option at the industrial site is considered the best one. It is felt that the joint court/police option is out. He acknowledged and commended the five-year plan for civic improvement, however, it is felt that the timeline is no longer realistic as construction is proposed for fiscal year 04/05. A new site would require site acquisition, site improvement, design and construction and would take time. He noted that a building is available and is suitable for a police facility as it is a shell that could be constructed to create an ideal police facility. He requested that the Council direct staff to move forward with this option. He conceded that there could be a more ideal location. However, he felt that the Vineyard building is accessible to the public.

Robert Benich spoke in favor of collocating the new police station on the same property with the new County courthouse as it makes sense to share parking and detention facilities. He felt that the courthouse facility is in the right location, close to an emerging Morgan Hill downtown center, close to transportation facilities and highway access routes. He felt that it made sense to have an integrated architectural and landscape design between the courthouse and the police station. He urged the Council not to give up so easily in its plans for a police station on the same property with the courthouse. He noted that the police department is currently operating out of a 10,000 square foot building. If the new building doubles or triples in size, the community would still have a facility that will serve the needs of the community well into the 21st century. With respect to costs, the Finance Director lists \$6.7 million as a budgeted amount in the City's capital improvement budget. The Morgan Hill Times reports that the owners are asking \$6.4 million for the warehouse and that there would be an additional \$800,000 on tenant improvements, resulting in a \$7.2 million police facility at Vineyard Boulevard. He noted that the Business Assistance and Housing Services Director indicates that the estimated cost for new construction of \$8.4 million would still result in a \$1.6 million shortfall. He inquired where these funds would come from? He noted that the staff report suggests three funding sources: 1) police impact fund (\$1.2 million), 2) city library land sale (\$1.7

and 3) certificates of participation debts for a subtotal of \$7.2 million. He identified three other alternatives: 1) Look at the sale of the existing police facility at \$1.2 million; 2) use RDA funds to benefit the community. If the City can build libraries, aquatic centers and other facilities, the city should be able to build a police facility. 3) Reduce the aquatics center budget. He felt that the community needs a police station more than an aquatics center. He said that it makes sense to share facilities between a courthouse and a police station and that it should be built in the best location to serve all the people of Morgan Hill. He recommended that the Council do what is best for the community and not capitulate to the County Board of Supervisors.

No further comments were offered.

Mayor Kennedy requested an update on the availability of land adjacent to the courthouse for public facilities.

City Manager Tewes indicated that the RDA acquired a parcel of property on Butterfield, south of the train station and that it is approximately 8 acres. These 8 acres are to be made available for a courthouse and a police facility nearby. He stated that the City has an agreement with the County that requires them to jointly master plan the facility with the City, but gives them the authority to use the entire 8 acres if they so chose. He noted that the Council has in its packet a letter from the general services administrator of the County indicating that as they begin moving through the courthouse planning process, they have identified additional court related space that they would like to locate in south county. This would require more of the 8 acres than originally anticipated. City staff felt that the County could get by on 6 acres, leaving a 2-acre parcel for a new police station. However, as the County moves through their planning process to consume more of the space, the City was left with an odd shaped, narrow parcel of less than 2 acres. If the County is to proceed as proposed, there would not be a site sufficient on the Butterfield/Diana property for a police station. He noted that the letter also indicates that the County may be able to leave behind 3/4 of an acre. He felt that the 3/4 acre could work for a fire station but would not be adequate for a police station.

Council Member Tate inquired about the whole philosophy of community policing as having a civic presence and being apparent in the community. He did not believe that the Vineyard industrial location lends itself to community policing.

Chief of Police Galvin said that community policing talks about officers to citizen relationships versus what a building looks like. He said that ideally, he would like a civic presence. He felt that the Monterey Road would be an ideal location. He did not believe that the location of a police facility would impact the community policing philosophy. What will impact it would be the attitude and how the officers handle themselves in building these relationships.

Council Member Sellers inquired if there is access off Vineyard heading north on Vineyard to Butterfield?

Chief of Police Galvin responded that the Vineyard facility would not access Butterfield. He said that Butterfield would be used in handling calls to the north of the City to avoid traffic on Monterey Road. Once Butterfield is extended next year, access would be east on Tennant and then north on Butterfield Boulevard. He indicated that Ed Gee, Gee and Associates, is the City's architect for the

plan. He agreed that collocating a police facility and a courthouse would be ideal but that every indication he has seen is that this would not happen.

Mayor Kennedy inquired if a preliminary layout of how the police department's needs would be met on the Vineyard site has been prepared?

Chief of Police Galvin said that further study would be undertaken to develop tenant improvements necessary to make it an acceptable facility. He said that it would take Council direction to undertake the study.

Mr. Gee agreed that the Vineyard building is oversized. In this particular case, the City would need to consolidate the space in order to allow the police department to work in a compact space. The remaining space could be used for other uses such as parking or for other city activities. He stated that tenant improvements would be needed in order to make the facility work properly.

City Manager Tewes indicated that the owners of the building are in attendance. He noted that this is a fairly brand new building and has never been occupied. He indicated that the building was built for a specified user who chose not to move into the building. He said that building has not been completed and that there are opportunities for a bay of offices and that it can be developed in an efficient manner for a police station. He said that the City would need to identify other potential tenants for the surplus space.

Council Member Tate said that the \$800,000 estimate for tenant improvements appears to be an optimistic number.

Mr. Yee said that the \$800,000 is a low number. The City would need to take a look at the remodel that needs to be done in order to determine the cost. He agreed that this is the next step that needs to be undertaken for the Vineyard site.

Mayor Pro Tempore Carr said that he was disappointed that it appears that the County is going to push the City out of the way and get their way. He said that he was on the Council when County Board of Supervisor Gage informed the City that he and the County would work with the City. Supervisor Gage understood why the City would be interested in collocating a police facility with the Courthouse. He noted that the Council voted 5-0 in support of the plan, at the time, based on this understanding. Now, it appears that these words are now forgotten and stated his disappointment. He said that when the Council agreed to sign the agreement, it was signed not based on a site but based on an idea of a courthouse. He indicated that the courthouse was not to the scale of what the County is talking about now. He noted that the Council is talking about a courthouse grander in scale which he continues to believe is inappropriate at the Diana-Butterfield location. He said that it was disappointing that the City could not find a way to have the County work with the City on this as there are a number of opportunities to share space/parking and to perform a design that will work well for the downtown. He was disappointed in reading the letter from the general services director of the county that they are using a fine tooth comb to go through the agreement to get whatever leverage they can on the City to get what they want in the heart of the downtown and not consider the wishes of the community, residents and the leadership of Morgan Hill. He appreciates the situation that the police officers have been working in for too long. He felt

that something needs to be done as quickly as possible to alleviate this.

Mayor Kennedy suggested that the Council direct staff to move forward on two fronts: 1) looking at the Vineyard location, conducting an appropriate initial design in order to get a cost estimate of what it would cost and time (e.g., feasibility analysis of the Vineyard site). 2) Push back on the County on the Butterfield site or another site near the Butterfield site. Staff to take the next step in order for the Council to compare both alternatives with a little for certainty and clarity. He felt that the Council needs to have enough information on both alternatives in terms of cost, timing and feasibility so that it can make a decision.

Council Member Sellers felt that Mayor Kennedy's suggestion makes sense because it would provide the Council with missing information. He wanted to see space for the police department to be set aside and that the City identify what the surplus space might be used for. He felt that there was a silver lining to the courthouse situation. He said that the expansion of the courthouse facility was due to the County's interest in expanding court facilities for south county. He felt that this would afford an opportunity to expand economic development opportunities in and around the area. He agreed that there would be an advantage to having a police department collocate with a courthouse. However, he felt that there was a greater advantage to having a fire department at the Butterfield/Diana site as it would be an ideal location for a fire station. He felt that the Council needs to talk about the fire versus police station option and how it may weigh into the decision making process. He requested that the City Manager take a more active role in the negotiations of the Vineyard Boulevard site as he possess a unique set of skills that can be employed at this particular site. He wanted staff to take a closer look at the tenant improvements, including them in negotiations as creatively as possible. He felt that there were significant opportunities in looking creatively at tenant improvements. He noted that it was mentioned that building a public facility always costs more. He felt that doing public tenant improvements could also potentially cost more. To the degree that the City can shift these costs to the private sector in the development of the building may be beneficial. He recollected that in 1988, when the City talked about the facility located on Monterey and Main, it was indicated that it was to be a temporary solution and that it ended up costing a lot more to do the improvements than acquiring the building. It became far more than being a temporary building. He did not believe that the Vineyard facility would be a temporary facility. Therefore, the Council needs to carefully weigh the loss of an industrial site and its impact long term. He said that he would like to see the police station move from the Vineyard site 5-10 years if the circumstances prescribed, but that he did not believe that this would happen.

**Action:** *Mayor Kennedy made a motion, seconded by Council Member Sellers, to **direct** staff to conduct a feasibility study/cost analysis and time estimate for the use of the industrial building on Vineyard Boulevard; and to **continue** discussions with the County regarding collocating a police station on the Butterfield site or a site adjacent to it. Staff to look at alternative permanent sites and return with acquisition costs.*

Council Member Sellers felt that this would be a first step in a series of steps and felt that it would be important to move forward with it.

Council Member Tate stated that he took the opportunity to tour the facility today and indicated that

he has conducted a couple of ride alongs with the police in the past. He said that the comparison is unbelievable. He concurred with the idea of looking at some of the alternatives, noting that it is cramped at public works and getting more cramped at city hall. He wanted to know what other city facilities could be relocated to the Vineyard site and what other things can be done at this facility. He expressed concern with giving the police officers a plush facility to hang out and then expect them to be out in the community and performing community policing. He said that he would be interested in pursuing the Vineyard facility not because he did not agree that the collocation with the courthouse was optimal but that it would be several years down the road. He noted that the City signed an agreement that would allow the County to come in and do what they are doing. He noted that the Council has asked the City Manager to test the agreement with the County. He would agree to test the County again but that he did not believe that it would go very far. He stated his support of looking hard at this alternative, understanding the costs in more detail. He felt that \$800,000 in tenant improvement is low and that the Council needs a much better estimate, including other functions for this facility.

Mayor Kennedy said that the City needs to move forward with the acquisition of a permanent site, if the Council was going to proceed with the CIP. He felt that the Council needs to look at sites anyway. He felt that this may be the time to look at permanent sites. He said that it may turn out that the City cannot afford another site near the courthouse or this location.

Mayor Pro Tempore Carr stated that he was also interested in exploring other opportunities in shared use with other tenants. He would like to send comments of disappointment to the County about how the discussion about the courthouse and the beginning of a relationship of a significant county facility in the middle of the community has been met with a lack of cooperation from their end. He did not believe that this is the way for the County and City to get off on the right foot.

Mayor Kennedy agreed to write a letter, with the assistance of the City Manager, to remind the County that they have forgotten what they have agreed to. He felt that the City needs to hold the County accountable. Above all, he felt that this would help to move the police facility forward in both cases.

Council Member Sellers inquired how long it would take for staff to return with a report.

City Manager Tewes said that staff would return with a report on space planning and cost estimating in 30-60 days.

**Vote:** The motion **carried** 4-0 with Council Member Chang absent.

## ***City Council Action and Redevelopment Agency***

### **OTHER BUSINESS:**

#### **31. COMMUNITY PLAYHOUSE PROJECT - ADDITIONAL FUNDING REQUEST**

Director of Public Works Ashcraft presented the staff report.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

Council/Agency Member Sellers said that it has been helpful to hear back what problems were encountered. He said that the Council knew that there would be issues especially with this building. He felt that it forces the Council to look harder at how much this project would really cost and to see if costs could be cut a little. He stated that it makes sense to make the additional funding.

Director of Public Works Ashcraft indicated that a decision this evening would not delay the project.

**Action:** *On a motion by Agency Member Sellers and seconded by Agency Member Tate, the Agency Board, on a 4-0 vote with Vice-chairwoman Chang absent, **Appropriated** an Additional \$50,000 From the Current Redevelopment Agency's Project Contingency Balance to Augment the Total Project Budget.*

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Authorized** the City Manager to Execute a Purchase Order in an Amount Not to Exceed \$35,000 with Office Products & Interiors (OPI) for Furnishings at the Playhouse Project.*

## ***City Council Action (Continued)***

### **OTHER BUSINESS:**

#### **32. DRAFT ECONOMIC DEVELOPMENT STRATEGY GOALS, POLICIES, AND ACTIONS**

Director of Business Assistance and Housing Services Toy presented the staff report. He addressed the draft Economic Development Strategy Goals, Policies, and Actions as recommended by the Economic Development subcommittee consisting of Council Member Tate and Mayor Pro Tempore Carr. He clarified that not all actions contained in the report are necessarily endorsed by staff or the subcommittee but that it was felt that they were important enough to include in the report to solicit input from the Council. He requested Council input and comments on the Economic Development Strategy. The subcommittee believes that the Chamber of Commerce needs to be provided an opportunity to submit comments on the draft Economic Development Strategy. Comments would be referred to the subcommittee for revisions and brought back to the Council for consideration.

Mayor Pro Tempore Carr said that the subcommittee has met a couple of times and have reviewed the Economic Development Strategy with Mr. Toy and the City Manager. He said that the items left open were areas that the subcommittee felt Council discussion was warranted in order to give staff direction. One thing that was clear to the subcommittee was that these were important steps to take and complete before proceeding with any implementation. He indicated that requests for assistance are piling up. It was made clear that the draft Economic Development Strategy needs to be discussed by the Council before economic development implementation. He recommended that the Council spend time discussing some of the issues and that further direction be given so that the subcommittee and staff can further define some of the points.

Council Member Tate did not believe that this would be a simple process. He stated that the subcommittee needs input from the Council to figure out if the Strategy is proceeding in the right direction. If so, the Council needs to take the actions stated. As a result of these actions, the Council may have to establish other policies and directions. He stated that this did not turn out to be as simple as it would be to get directly to the answer.

Mayor Kennedy referred to goal 6 relating to tourism and felt that it was a good goal to implement. However, he felt that it was a gut level belief. He noted that all of the goals talk about doing things that benefit a strong stable economic base, things that really improve the City's economic base. He felt that Goal 6 is a little different as it encourages tourism with development activities. Other than a gut level, he inquired why include this goal?

Council Member Tate responded that the Committee did not spend time on goal 6. The Committee wanted to get a general feel from the Council whether it was a goal worth pursuing before spending time on this goal. He indicated that the Committee did not have enough time in two weeks to fully cover all strategies.

City Manager Tewes indicated that there some general plan policies that talk about tourism at least at the same level of generalities as this draft strategy. If this is an important priority, the City would need to invest significant resources in attracting tourist attractions such as Bonfonte Gardens, a museum or something that has the potential to attract individuals from outside the community. He stated that the City has wonderful amenities in the community but that they were not at a level where we would see individuals coming to Morgan Hill from other regions unless a tourist attraction is developed.

Mayor Kennedy felt that a possible tourist attraction would be a Thomas Kinkade Museum. If the City retains the goal, it would allow the City to look for this type of opportunity. He supported goal 6 in concept but felt that it was a gut level support. He said that the Transient Occupancy Tax provides an increasingly significant percentage of the City's budget. If you look at this percentage, it is about 10% of the general fund budget when it is doing well. He recommended that more substance should be placed on goal 6 and determine why it is important.

Council Member Sellers stated that he was grappling with a couple of themes that keep recurring. One is a lot of reports and analysis as first steps in most cases, proceeding from this point. He felt that this would be a significant investment and that he was anxious about this. He stated that he was anxious about the City generating more paperwork and less activity than would be preferable. He felt that it would be appropriate to have the Chamber come back to the Council and provide input. He was anxious that the Council would be dictating the entire Chamber set of activities. On the other hand, he felt that the Chamber was too dependent on the Council's direction and funding. He said that a traditional Chamber of Commerce is a business organization that has specific roles and functions and did not necessarily get public funding. He wanted to know where the line is drawn so that everyone is clear where the Chamber starts from.

Council Member Sellers referred to Action 3 that talks about the PUD guidelines. He felt that there could be some value in this but that he wanted to make sure that City staff is not working in cross purposes. He indicated that he has seen instances where there is an interest in an initial tenant

wanting to establish and develop PUD guidelines. He felt that there was significant resistance from the planning end from doing this. He did not know if the City needs to spend the \$40,000 to perform the PUD when the City has someone ready to conduct the PUD. He said that he would prefer to address this issue and figure a way around it before spending money doing what the private sector would typically do. He requested that this concern be giving some consideration.

Council Member Sellers referred to 4.d.1 that talks about developing, training, and marketing programs to provide downtown merchants with tools to compete. He felt that the downtown association would take this as their charge to the degree that it ought to be. He said that downtowns have evolved to a degree that they are different kinds of retail mix and that they are not in direct competition. He was not sure how much of a priority 4.d.1 should be and felt that it moves down in priority because they are not parallel universes.

Council Member Tate stated that the recognition of what is being stated by Council Member Sellers is what was trying to be stated. The committee was trying to state that it does not believe that the downtown knows how to differentiate themselves.

Council Member Sellers said that in terms of recruitment, the businesses that will locate in the downtown would not necessarily locate in other areas and vice versa. He did not want to start the issue of competing against the rest of the world when the City is in its own world. He felt that the Downtown Association would be addressing a lot of this and felt that it would be important to reference this but that it would be taken on in itself.

Mayor Pro Tempore Carr stated that goal 4.d.1 is a high priority to him. He indicated that the committee spoke specifically about working with the Downtown Association. If a large scale retailer wants to locate in one of the City's business park that would provide competition and damage to the downtown, he felt that the City should be looking for mitigations to this. He stated that the Downtown Association would be the appropriate venue to work this through. He felt that this action and other actions within this specific policy tries to address this issue.

Council Member Sellers stated that other smart cities have told Walmarts, coming into their towns, to pay for the Downtown Association. He said that these are separate issues from training. Regarding the auto district and auto dealers that might locate in Morgan Hill in the future, he felt that it would be more of a fundamental issue of answering how many auto dealerships the Council would like in Morgan Hill. He felt that the discussion was leading toward how many auto dealers would like to locate in Morgan Hill and that he did not believe that the Council was there yet. He felt the Council needs to answer for itself the desirability of locating additional auto dealerships, and if so, how many. He said that the desire of 1 or 2 or 8-10 would be a different discussion. He wanted to have Council discussion about how many dealerships, if any, it would like to locate in Morgan Hill.

Mayor Pro Tempore Carr said that there were several items that the Committee was hoping to receive additional Council comments on such as goal 3, policy 3.d and the discussion about marketing, public relations and advertising services.

Council Member Sellers stated that the bullet points under 3.d.2 were more specific. He said that



target mailing may or may not be desirable. He did not know if this should be referenced under this point. He was anxious about implementing the whole strategy at the front end. He would like to know what the City is selling before it starts selling a strategy.

Mayor Kennedy felt that the Council needs to determine what it wants to sell. Is it big box retailers, small shops for the downtown, industrial job producers or all of the above? He felt that the Council could be overwhelmed. The question is what the City should focus its marketing on? He said that it would be his intuition to market across the board and see what can be attained. However, if the Council spends a lot of money on marketing, the City may recruit some good potential businesses only to tell them that their businesses were not being sought.

Mayor Pro Tempore Carr said that a key to this question is not to consider this one policy and action item in a vacuum. Throughout the strategy, the committee talked about the different types of clean businesses and talked about maintaining agricultural. There was discussion about a lot of different things that became a part of the development strategy. He felt that all of these things become part of the strategy. Also, discussed were the things in Morgan Hill that would attract someone to this area. He felt that some of the answers are contained throughout the document if you can consider the strategy as a whole. He inquired whether it was appropriate to implement an advertising campaign in target mailing and to spend limited resources on economic development?

Council Member Sellers felt that the City should be looking at industrial opportunities for several reasons. He noted that the City has one of the largest industrial parks in Silicon Valley. He felt that the City has significant opportunities. He noted that industrial businesses have different criteria for locations and that it is not retail driven purely by customer base. He felt that the City has opportunities to make a specific case where someone can locate in specific locations. He said that there will be some retail recruitment opportunities being developed by the Downtown Association. However, in a broader sense, he felt that a use locates in a site when it makes sense. He stated that he would like to have the input of the Chamber of Commerce and others on how to do this before implementing the strategy and start recruiting big businesses.

Mayor Kennedy inquired whether the Committee looked at studies that identify the market the City should go after?

Mr. Toy indicated that the City has a study performed by Sedway that clearly identified what markets should be targeted. He stated that staff looked at the study and that the City achieved some of the target areas. He said that this study has not been updated and noted that one of the actions is to update the study. He said that the target industry analysis would include an economic base goals (action 1.a.1). He explained that a cluster analysis is an analysis that helps the City determine what its strengths are and which industries would like to locate in an area.

Mayor Kennedy cautioned that when the target industry analysis is conducted, that it be kept open ended and broad in order to truly find out the potential for Morgan Hill. He recommended that the analysis be kept open ended to determine the range of good possibilities for Morgan Hill. He felt that the analysis would help determine the target.

Council Member Tate indicated that the Committee tried to address this by stating that the City has

to keep up with the target analysis and look at it every year. He did not believe that it can be kept so broad that you can't focus. He felt that the City has to have a target.

Mayor Kennedy felt that an open-ended analysis would determine what industry to target.

Director of Business Assistance and Housing Services Toy said that once the base analysis is completed, it will give the Council a range of industries to target.

Mayor Kennedy stated that the Sedway report looked only at certain retail markets rather than looking at target industries for the community. He felt that the report focused on retail and not the broad overall classification (what businesses as a whole would work).

Director of Business Assistance and Housing Services Toy indicate that Sedway updated their retail and industrial strategy in 1996 or 1997 and recommends some issues that they felt the City could absorb but did not address some of the businesses recruited such as Abbot Laboratories.

Mayor Pro Tempore Carr recollected that as part of the General Plan update, when the Council looked at sales tax leakage from the community and where it is was losing its dollars, the Council looked at the climate base that the City has to be able to support industry. It was his belief that this was different.

Mayor Kennedy did not believe that the Council should narrow the analyses and recommended that it be a broad base analysis.

Council Member Tate indicated that this is not just a leakage analysis.

Council Member Sellers stated that it would be helpful to him to have another week or two to digest the information and to hear back from the Chamber of Commerce their thoughts.

Council Member Tate was not sure that the committee received the direction it needs regarding the auto dealerships (4.e.2). He felt that the Council already decided on this issue and that staff is suggesting that the Council does not presume a target but that the Council figure out what the target can be. He felt that the Council majority agreed on a target of 4-5 dealerships and targeted the area east of the freeway for these additional dealerships.

Mayor Pro Tempore Carr stated that he did not recall the Council agreeing to a specific number of auto dealerships. It was his recollection that the Council discussed a specific dealership on the east side of the freeway. He expressed concern that there may be some Council members that may be assuming that an auto mall would be built in the community. If so, this troubles him. If the Council is proposing to build 1 or 2 dealerships, then perhaps the east side of the freeway may not be the right place to locate them.

Council Member Sellers stated that he was not comfortable in resolving the dealership issue this evening. He felt that there would be community backlash if all the Council decides that a large number of dealerships can be accommodated in the City. He wanted to make clear to the public that should the Council proceed with this, it is merely to determine what would be possible but that the

Council is far from deciding what is desirable.

Mayor Pro Tempore Carr noted that conducting an analysis would not be cheap.

Mayor Kennedy said that if there are some hard limits that each Council member has, that the Council should discuss these limits.

City Manager Tewes said that staff interpreted the Council's direction to be that it was not looking for an auto mall, but an auto district that the Council identified should be located at the East Dunne Avenue/Highway 101 interchange. The auto district to consist of 4 or 5, and no more, dealerships. Therefore, the notion of the growth demand analysis that determines how many car dealerships can come to Morgan Hill is already limited by Council policy. If the City can absorb 10, the City would only have 4-5 dealerships. However, if the City cannot achieve 4 or 5 dealerships, the suggestion was that it may lead to different decisions about land use. He reported that interest continues to remain high in auto dealerships in Morgan Hill. He felt that 4 or 5 is about the right number and that he was not sure whether the City needs to spend \$50,000 to find this out.

Council Member Sellers stated his agreement with City Manager Tewes comments.

Mr. Toy said that a conceptual plan would be included and depending on where the auto district would be located, would include elevation and design guidelines. This could be done without the growth demand analysis but would need to know which site the Council is interested in.

Mayor Kennedy felt that auto districts would want to locate by the freeway, near major intersections. He withdrew his support of the idea of spending \$35,000-\$40,000 to conduct a demand analysis because it was his belief that the Council already knows what it wants. He supported spending more time on this issue and not rush through a decision this evening.

Mayor Pro Tempore Carr referred to policy 5.1, the idea of establishing and implementing a business retention/expansion program and the role of the Chamber. Action 5.1.5 talks about the fact that the City currently gives the Chamber dollars to perform certain actions. The question is whether the Council wants this to continue or discuss future partnerships. He noted that 5.m.9 relates to retention and how the Council wants to continue the relationship with the Chamber and what the relationship will be. He understood that the Council would need to hear back from the Chamber regarding this area.

Mayor Kennedy addressed 5.1 and stated that having served on the Chamber board and, from time to time, the Economic Development Committee, he felt that the Chamber does a good job with the business retention and expansion program in place. He felt that this is a good area for the Chamber to continue to work and for the Council to continue to support their efforts.

Mayor Pro Tempore Carr concurred with Mayor Kennedy's recommendation under the current terms of the contract.

Mayor Kennedy opened floor to public comment.

Bob Engles indicated that he was present on behalf of the Chamber of Commerce and the business community at large. He stated that the Chamber's Chairman, Alex Kennett and President Sunday Minnich were unable to attend the meeting this evening. The Chamber would like the Council to know that it would like to have time to review the strategy put forth by staff and the committee. The Chamber would like to return to the Council with its thoughts, looking forward in working with the staff in furthering the economic development strategy in the future.

Mayor Pro Tempore Carr requested that the Council consider the role of city government in economic development and consider more emphasis with things that deal with infrastructures, one the City is good at. He noted that the Council received a report this evening about the PL566 and how it affects the downtown plan. He felt that the Council could use all of its economic development money on trying to work on flood control projects in downtown and not complete them. He felt that city government does well in infrastructures and that there should be more emphasis on the types of infrastructures that it can be doing, encouraging the market beyond that. Mentioned was the idea of PUDs and other things that the City does well and he felt that there were more things that the City could do. He encouraged the Council members to give thought to this for the next meeting.

Mayor Kennedy said that at the PL566 meeting, there was discussion of possible RDA assistance to help this project such as a loan to perform engineering work. He inquired how much funding was set aside for flood control or storm water retention, if any.

Director of Public Works Ashcraft said that \$4.5 million has been set aside specifically for West Little Llagas Creek to be spent 3-4 years out in conjunction with the Water District when they build the project. He indicated that it is not in this year's budget but is included in the CIP budget 3 to 4 years out to finance the local connections to the PL566. He was not sure as to the RDA's cash flow. He noted that it is not ear marked in this year's budget but that it has been earmarked from the \$147 million, \$4.5 million specifically for this project. He said that this may be a possibility. It was his belief that there was another \$2 million set aside for other drainage improvements.

Mayor Pro Tempore Carr noted that the City has earmarked dollars for flood control but that the City also has economic development dollars that could be used for some of these things.

**Action:**            **No action taken.**

**1)    COMMUNITY INDOOR RECREATION CENTER - RECEIVE SUBCOMMITTEE RECOMMENDATION AND AWARD PROFESSIONAL CONTRACT FOR ARCHITECTURAL DESIGN**

Deputy Director of Public Works Struve presented the staff report.

City Manager Tewes said that the recommended actions this evening are for Council to: 1) consider the subcommittee's report and their recommendation that the City contract with Noll & Tam; 2) approve the scope of work; and 3) authorize staff to negotiate a contract. He indicated that the City has standard architectural contracts and that the scope of work that would be included are significantly more expensive than what has been presented as their fee proposal. He clarified that

staff is not asking the Council to approve this specific scope of work but that in the course of negotiations, details will be included in the standard agreement form.

Council Member Sellers felt that the internal process of this subcommittee had some significant flaws. He indicated that Noll & Tam had a lot of patience with the process. He stated that a selection committee was put into place and that the process became a little disjointed. He said that the problem that was encountered was the divergence between allowing for input from individual members but coming to a consensus and moving forward with it. He said that the subcommittee reached a point where it decided on a firm, Noll & Tam, and a contract was negotiated. At this point, there was some concern from individuals that there was an interest in enhancing the design, to some degree. He stated that he did not share in this view as it was his belief that the right firm had been selected and brought the right balance of enthusiasm, talent and ability to work with the community to the project. He stated that he is satisfied with the recommendation because Noll & Tam was selected and was the choice of the committee. He felt that Noll & Tam would render an exciting project. When the Council went to Colorado to look at a project, a couple of things became obvious. He noted that one firm performed most of the projects. It was a dilemma when the Council came back because California did not have firms that performed these kinds of projects. He indicated that the subcommittee was satisfied with the product and felt that Nolle & Tam would present a project that would be exciting to the community, one that works well.

Council Member Sellers urged the Council to approve the recommendation this evening and allow staff to move forward with it. He indicated that he and Council Member Chang spoke earlier today who expressed her reservations. She asked that the decision be delayed a few weeks. After discussion, they came to the conclusion if the process allowed for her to meet with Mr. Davis and satisfy her concern, that the Council can move forward this evening, contingent upon and with the understanding that this would happen. He said that at the annual retreat, he would like to discuss the role of the subcommittees and the role of individual Council members of subcommittees because road bumps were hit in the process that impacted the process and made it difficult for the firm. It also taxed their patience and tested their professionalism on several counts. He stated that he would like to try to avoid this in the future.

Mayor Kennedy opened the floor to public comment.

Charles Weston, Weston Miles Design, said that the City is embarking upon the construction of 3-5 public facilities. Not only will there be the initial cost of building them but that there is maintenance and return on investment portions that rarely gets addressed. He has spoken to a couple of Council members about the green program. It was his believe that the Council has instructed, in the requirements, that this project reach as high as it can, achieving gold. He cautioned that going after points is not a good thing. He recommended that the design of the indoor recreation center be sustainable. In order for the City to receive a return on investment, the City should look at strategizing ways to reduce the heating and cooling loads. He recommended that the City hire a commissioning agent who would oversee the whole mechanical/electrical systems from the very beginning to see how they integrate with the architectural design and continue using them throughout the construction administration process. Doing so would save the City lots of money annually.

Janet Tam, Noll & Tam Architects, stated that she is well aware of the City's policy to try to achieve something as ambitious as gold. She said that she has created a team and has incorporated in her fee proposal several different Leed requirements that are needed to attain gold. She invited Council members to attend a meeting to talk about how this building would be made sustainable and what it would take to achieve platinum or gold. She said that everyone on the team is aware that the City is trying to achieve gold. She said that the team includes experts in the field of sustainability. She indicated that Lynn Simon, who is Leed certified, would be leading the process. The team also includes a cost estimator who is conversed in determining the costs associated with sustainable features of a building. The mechanical engineer is also conversed in sustainability. She indicated that the mechanical engineer from Taylor Engineering was requested to include additional commission during the course of construction administration.

Mayor Kennedy noted that Mr. Weston suggested a separate commissioning consultant be included.

Chris Knoll, Noll & Tam Architects, felt that it would be possible to have an outside engineer/specialist to come in to do the commissioning. He said that this would be a part of the Leed certification process to have an outside professional.

Ms. Tam indicated that an outside person is not a part a part of her fee proposal nor included in the scope of work.

Mayor Kennedy requested that Tam Knoll display the works of Mr. Chuck Davis.

Ms. Tam explained that Mr. Davis' roll in the process would be as designer responsible for the overall design of the building, site development, to guide the design process, set the design direction and to be very much involved and part of the design team.

Mayor Kennedy said that he received a call earlier from Council Member Chang requesting a two-week delay on this item. He felt that this is an important project that needs to keep moving forward. He stated that he was comfortable proceeding with the team that has been assembled and felt that they would do a good job.

No further comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Scope of Work From Noll & Tam Architects for Architectural Design Services in an Amount Not to Exceed \$1,765,300.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Authorized** the City Manager to Negotiate and Execute the Professional Services Agreement, Subject to Review and Approval by the City Attorney.*

Mayor Pro Tempore Carr stated that he was still interested in exploring more about what Mr. Weston presented this evening and requested that staff address his comments at a future meeting

date. He noted that the Council has set a high ambitious goal of gold certification.

Council Member Tate noted that the Council has discussed whether it wanted to achieve certification versus achieving a level of certification.

City Manager Tewes indicated that the Council authorized the hiring of a position of "Senior Project Manager" with the criterion that it be a licensed architect. He indicated that staff has found a licensed architect who would be starting early in December. He indicated that staff would return with further information regarding certification.

**35. URBAN LIMIT LINE (GREENBELT) STUDY: FORMATION OF CITIZEN ADVISORY COMMITTEE AND PARTICIPATION IN THE CONSULTANT SELECTION**

Director of Community Development Bischoff presented the staff report, indicating that the Council was provided with a recommended make up of committee members this evening. He advised the Council that there are three actions before them: 1) appoint two council members that would review applications received to serve on this committee; 2) confirm that this is an appropriate composition for the committee, or provide other guidance to staff; and 3) one or more council members assisting staff in screening the applications from architects for this project.

Council Member Sellers indicated that Mayor Pro Tempore Carr has expressed an interest in serving on this committee.

Council Member Tate noted that this is a two-member Council committee to make recommendation to the Council on memberships.

Director of Community Development Bischoff indicated that there is nothing that states that the Council couldn't have these two individuals also be the Council representatives to this committee.

Mayor Kennedy noted that Council Member Chang is not present this evening and recommended that the two actions listed on the agenda be taken, leaving the positions open in order to give Council members the opportunity to consider their request to serve on the subcommittee. He indicated that he would agree to serve on the architect selection committee.

Mayor Pro Tempore Carr said that he would agree to serve on the committee looking at membership but that he would have to understand more about the time constraints and being a part of the committee itself.

Council Member Sellers felt that it was important that Council Member Chang weigh in her interest.

**Action:** *Mayor Kennedy **appointed** Mayor Pro Tempore Carr and himself to serve on the two Council subcommittee to make the recommendation and to participate in the consultant selection process. The motion carried 4-0 with Council Member Chang absent.*

Council Member Sellers recommended that staff contact the farm bureau first and request their recommendation. He recommended that a citizen be appointed that would represent the agricultural community. He said that he did not want to preclude someone's involvement just because they are not a member of the farm bureau.

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** the Mayor's appointment of Mayor Pro Tempore Carr and Mayor Kennedy to a Two-Member Council Committee to Make Recommendations to the Council on Membership of the Urban Limit Line (Greenbelt) Study's Citizen Advisory Committee.*

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **Appointed** Mayor Kennedy and Mayor Pro Tempore Carr to Participate in the Consultant Selection Process for the Urban Limit Line (Greenbelt) Study.*

**Action:**      *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council, on a 4-0 vote with Council Member Chang absent, **concurred** with the make up with the committee.*

**Action:**      *On a motion by Council/Agency Member Sellers and seconded by Mayor/Chairman Kennedy, the City Council/Agency Board, on a 4-0 vote with Council Member/Vice-chairwoman Chang absent, **agreed** to extend the meeting beyond the curfew hour of 11:00 p.m.*

### **36.      CHALLENGE GRANT FOR UNITED WAY SILICON VALLEY**

Mayor Kennedy indicated that a request was received from United Way. He noted that the Council would be receiving a similar request from MACSA and that there may be other organizations as well seeking Council funding.

Council Member Tate said that when he makes his commitment to United Way he designates the funds to go to Community Solutions as it is the agency he wants to support. If there is a way to contribute to United Way that would allow support of a local agency, he would support funding. However, he would not support if it is just a general contribution to United Way.

Mayor Pro Tempore Carr stated that he has been asked to serve on the South County campaign team for United Way. He said that South County agencies that receive dollars are benefactors. He did not believe that the Council has donated to United Way before but that City of Morgan Hill employees have contributed as a campaign team. He said that the City of Morgan Hill employees have far exceeded employees to the south. He felt that the City is meeting the challenge. He did not know whether the Council should participate in a City contribution at this time considering that the Council received a request not too long ago that it did not fund. He noted that additional funding requests would be coming before the Council. He stated that he did not know how to gage who to give money to if the agencies were not in the same pool.



Council Member Sellers expressed concern that the Council does not have funding designation for these requests. He inquired whether the Council would be creating another pool for this type of funding. He said that he has had the opportunity to sit with Mark Walkers and that he was excited about his vision for the United Way organization. He felt that the key to his success was an organizational support and not one or two individual groups. The fact that City of Morgan Hill employees have contributed generously is one that the City should be proud of. If the Council was to provide funding, he recommended that the Council encourage United Way to make it a more visible effort, especially if the Council has other funding requests coming up behind this one. He noted that the economy is not doing well and impacts the status of non profits.

Mayor Kennedy inquired how the City gets credit for employee contributions to United Way?

City Manager Tewes responded that the City has a United Way coordinator who participates in the United Way campaign. He stated that he could not tell from Mr. Walker's letter whether he was asking the City to continue its efforts with employees or to appropriate tax payer dollars to United Way, a practice that he is not familiar with.

Council Member Sellers felt that it sounded like United Way was asking for a challenge grant donation from the City of San Jose.

Mayor Kennedy stated that the City's response to United Way would be that the City's employees have a program that includes Council Members who would be contributing. The Council encourages broader United Way participation in the future.

Mayor Pro Tempore Carr recollected that the program that the employees of the City of Morgan Hill support is one of the largest fund raisers for United Way in all South County. He noted that Morgan Hill is not the largest employer in South County but that the City's employees are doing a great job. If the City of San Jose would like to match this dollar for dollar, it would be great.

**Action:** *It was the consensus of the City Council to **Direct** staff to prepare a response to this letter along the lines of the comments expressed by the Council.*

### **37. CITY ATTORNEY'S EMPLOYMENT AGREEMENT**

Mayor Kennedy indicated that he and Mayor Pro Tempore Carr served on the City Attorney's employment agreement committee. The Committee submitted an agreement for Council consideration. He complimented City Attorney Leichter on her performance. He felt that this was a good contract and a solid improvement in pay for the excellent performance that she has provided to the City. He stated that the contract agreement reflects this as well.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Approved** an Amendment to the City Attorney's Employment Agreement.*

City Attorney Leichter thanked the Council for the continued opportunity to serve it as well as an excellent staff. She further thanked the Council for its continued vote of confidence.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

**ADJOURNMENT**

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 11:20 p.m.

**MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk**

**CITY OF MORGAN HILL  
SPECIAL CITY COUNCIL MEETING  
MINUTES - NOVEMBER 13, 2002**

**CALL TO ORDER**

Mayor Kennedy called the meeting to order at 7:04 p.m.

**ROLL CALL ATTENDANCE**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

**SILENT INVOCATION**

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENT**

Mayor Kennedy opened the floor to comments for items not appearing on this evening's agenda. No comments were offered.

**OTHER BUSINESS**

**1. SEWER AND WATER REVENUE REQUIREMENTS**

Director of Finance Dilles presented the staff report and indicated that John Farnkopf with Hilton Frankopf and Hobson, LLC was present to make a presentation of the Water & Sewer Fund Revenue Requirements Study.

**Water**

Mr. Farnkopf addressed the City's water fund as it relates to revenue and expenditure requirements.

Mayor Kennedy stated that the City just completed a water and sewer system master plan and that it was his understanding that water impact fees for new installations would take care of the expansion system. He inquired why fees are being proposed to be transferred if this is the case?

Mr. Frankopf responded that fees are based on full cost recovery. He said that there is a cash flow shortfall and that funds are not coming in quick enough to cover the cash flow shortfall. He said that in order to cover the cash flow shortfall, a loan would be required and that it would be repaid from the impact funds. He indicated that during the five-year project period, the funds would "square up."

City Treasurer Roorda inquired how volatile are the water purchase rates and how predictable are they over time?

Mr. Frankopf responded that the increase is based on a gradual trend at approximately 2% rate of growth, therefore, it is averaged out. He said that the climate will affect the rate of growth.

Mr. Dilles said that should the Water District increase water rates above the inflation rate, staff would need to return to the Council with additional rate adjustments.

Mr. Frankopf indicated that there are four water funds: operations, rate stabilization, capital projects and impacts funds. He addressed each fund category.

City Treasurer Roorda recommended that the minimum coverage be made in order to cover debt cost.

Mr. Frankopf indicated that none of the funds identified are proposed to cover debt but that they can be used for debt coverage.

Mr. Dilles said that a lot of investors insist on a certain amount of coverage and want to make sure that there is enough revenue coming in over and above debt service requirement. He said that the minimum amount of reserves meets this requirement.

Mr. Frankopf said that the 25% is the operational amount driven by lead leg time; this being the time the City incurs cost and when it will be paid by the City's customers (approximately 90 days lag time needed to have sufficient reserves to cover). He said that the reserves are not intended to meet gradual rate increases but are to be used for unusual circumstances. He noted that the City is using the rate stabilization account to hold water rates down.

Finance Director Dilles stated that there is some flexibility between the rate stabilization, capital projects and operational funds and that the Council will typically see some transfer of funds each year between these three funds. This is done in order to meet daily operations and to meet the minimum reserves. However, he said that the impact funds are restricted as they are to be used for costs associated with development.

Mayor Pro Tempore Carr said that he understood why there are minimum reserves in all funds. He did not understand why there is a large amount of combined funds in reserves that equate to \$4.8 million to cover an unexpected event.

Mr. Frankopf stated that the water operation reserve should be maintained at a minimum balance. He said that the other funds are at a comfortable balance. The consequences in letting the balance go to zero is not a major concern but would mean that there is less of a buffer before the City would need to increase rates.

Mayor Kennedy inquired as to the capital projects that are causing the huge expenditures of reserve funds and questioned whether these are projects that need to be completed at this time?

Director of Public Works Ashcraft responded that most of the capital projects were budgeted two years ago and were continued to this year. These include four water reserves and replacement of a telemetry system. He identified other five-year capital improvement projects that are planned in the future, noting that a lot of the capital improvement projects were for fiscal year 01-02 and have been carried into fiscal year 02-03.

Mayor Kennedy said that instead of bonding for the capital improvement projects that the City is self funding them through reserves from the water rates.

Mr. Dilles stated that it is the existing population that is causing the increase in rates and the need to perform the capital projects. He said that staff is comfortable with a 45% (20%/25%) reserve because in the long term, staff does not want to see rate spikes. Staff would prefer to see a smooth rate structure over time so that it does not impact the community too much at one time. Thus, the reason for the recommendation to keep the amount of reserves as being recommended.

Council Member Chang noted that the City would need to go out for bonding and go into debt service if the City does not want to use the reserves.

City Manager Tewes indicated that capital projects come out of the master plan that gets translated into Capital Improvement Programs (CIP) that in turn gets translated into revenue requirements. He said that the rate base will pay for the capital projects. The reserve policies are established for comfort, safety, cash flow needs, and are not proposed to finance future capital projects.

Council Member Chang inquired whether staff included funds for future capital projects with the proposed rate increase?

Mr. Frankopf responded that the proposed rate increases are a means to generate a fairly stable stream of revenues which includes a transfer into the capital projects fund. He said that the capital reserves would be used to pay for capital improvements.

City Manager Tewes noted that the current year includes a high and unusual level of capital expenditures. After this year, there would be a more regular rate of capital expenditures.

Mayor Kennedy noted that the City used reserves to pay for capital projects. He inquired if it would make sense to include triggers built into the reserves so that if the City is to go under the target reserves caused by such things as drought conditions that would not automatically trigger rate increases but trigger discussions on rate increases when a threshold is reached.

Council Member Sellers noted that you need to leave the county to find citizens paying more than

Morgan Hill rate payers. He inquired as to the reason Morgan Hill citizens are paying higher water rates?

City Manager Tewes said that the differences between Morgan Hill and Gilroy's system is that Morgan Hill has six or more pressure zones than Gilroy. Therefore, Gilroy has less pumping needs. Also, Gilroy has a less rigorous capital investment program.

Mr. Frankopf noted that three alternative options were being presented for Council consideration: 1) 2% annual rate increases to bring the balance to the upper end of the target by the fifth year; 2) a single 8% rate increase in 2003; or 3) pay \$1.5 million in capital improvements out of debt. He indicated that he is recommending the 2% alternative as it is a fairly modest rate of increase program.

Mayor Kennedy opened the floor to public comment.

Mark Grzan inquired as to the type of survey that was used to determine the proposed rate structures?

Mr. Frankopf responded that the survey was based on the effective rates from existing ordinances or resolutions. He used a common base to calculate the water bill.

Mr. Grzan stated that he would like to see a mean, median, and mode in terms of monthly costs. He would also like to see a gallon comparison as well as comparison of rates among agencies in terms of gallon utilization. He noted that Morgan Hill utilizes a tiered rate system and wanted to know how these rates compared to that of other agencies such as Sunnyvale, San Jose or Milpitas.

Mr. Frankopf stated that it is hard to make comparisons unless you convert information into a customer bill. He said that 19,000 gallons is the mean for a Morgan Hill single family residential customer.

Mr. Grzan inquired as to the rate structure for multi families. He inquired as to the percentage of Morgan Hill single family rate users.

Mr. Frankopf responded that the rate structure for large multi families is different. He said that 75% of the customers are residential and that he does not have information on industrial rate users.

Mr. Grzan felt that the information presented is lacking and was insufficient to make a decision. He felt that residents need more information/details about their water rates for basing the new rates. He said that he does not get a sense of community use based on the charts presented. He stated that his water bill is not close to the information being presented. He was not sure whether the information was typical for the average Morgan Hill resident. If the rates go up, he felt that the reaction from the public would be to reduce its water usage. If so, this will reduce water rate revenues.

Finance Director Dilles informed the City Council that staff provided Mr. Frankopf with the entire customer list that contained information of the kind of customers the City has and the amount of water usage. He said that there are 12,000 Morgan Hill water customers. Staff looked at how much revenue is being collected and how many gallons of water customers are using in order to come up with a rate structure.

Mayor Kennedy informed Mr. Grzan that the action before the Council is not necessarily to accept the rate structure but to provide direction to staff.

Mr. Frankopf indicated that the proposed 2% rate increase would not elicit much of a response from customers. He said that 8% or greater may solicit responses or concerns from residents.

Council Member Sellers said that the City has reserve funds to use in case of drought conditions. He noted that the community is using greater amounts of water per household the past couple of years. Also, the City has started to see that people are not paying particular attention to the rate schedule. He stated that the rate structure is such that the more you use, the more you pay. It is designed to encourage water conservation, if not, customers will pay for its water usage.

Mayor Kennedy said that the basic rate structure was designed to encourage conservation. The more water an individual uses, the higher the rate levels.

Mr. Dilles said that staff could share the information it has in terms of the number of customers the City has in each category and the revenues contained in each category with Mr. Grzan. He stated that it gets difficult to compare the City to other cities as it is a pain staking process to try and obtain this information. With Council direction, staff can conduct a city survey but that it would take effort to obtain the information.

Mr. Grzan requested that it be asked if other cities subsidize water rates. He felt that citizens are interested in knowing how the City's water rates compare with other agencies. He felt that it would be important for citizens to know that Morgan Hill water rates are competitive.

City Manager Tewes said that the consultant was only looking at the rate structure and not the tiered structure.

Council Member Sellers noted that there are no geographic variations in the rate structures and that in some geographic areas, it costs more for the City to provide water service than in other areas. He said that this may be something that the City may wish to consider at a future date.

Mayor Kennedy inquired whether it was appropriate for Mr. Grzan to work with staff as a starting point.

Mr. Grzan indicated that he would work with staff to obtain answers to his questions.

Mayor Kennedy recommended that triggers be added and that he would favor a 2% gradual increase versus one big rate increase. He also favored building back up to the higher target reserves.

Council Member Sellers felt that it would be appropriate to lump the operation reserves with the other reserves. He said that the operation reserves needs to be consistent and stable. He said that he was comfortable with the 2% rate increase. He stated that he would like to see a reserve, but not necessarily the reserves as identified.

Mr. Frankopf stated that there are different approaches to water rate structures. One would be for the Council to adopt annual increases and monitor the situation. Another approach would be to adopt a series of rate increases that can be turned off if it is found that they were not needed. He did not believe that the Council could leave the rate of 2% at cruise control.

Council Member Sellers recommended a 2% rate increase for the first years followed by a review.

Mr. Frankopf said that the rate increase has been modeled such that a 2% rate increase would take effect on April 1, 2003 and 2% on July 1, 2003 with the subsequent 2% rate increases in July of each year. The Council would need to determine when it would like the 2% rates to go into effect.

Mayor Pro Tempore Carr inquired where the 8% rate of growth came from?

Mr. Frankopf stated that if you plug in 8% into the model, you achieve the ideal target reserve.

Council Member Sellers expressed concern that the Council is trying to be reactive with rate increases. He felt that the things that would cause rate increases are natural disasters or significant capital requirements. He expressed concern that it may be poor fiscal planning to wait until the money is needed before asking the rate payers for the rate increase. He said that 9 times out of 10, the community would be less generous and less able to take on the sudden increase. He recommended that the City avoid the mistrust that has been avoided by the creation of a stable financial situation. He did not want to talk about rate increases until they are needed. He felt that the City needs to remain prepared for disasters. He recommended that a policy be developed and that the policy be monitored every year.

In response to Mayor Kennedy's question, Mr. Frankopf indicated that a bond indebtedness associated with alternative 3 would require 20-years of debt.

Council Member Chang inquired as to what would happen to the debt after year 5?

Mr. Frankopf responded that the debt service is built in at that point and would be part of the requirement for 20 years. He said that the rate increase associated with this would be 4% over the life of the bond. He said that it would be 20 years before you see a difference.



City Manager Tewes said that it would be appropriate to address why the rates are structured as proposed for the public hearing.

Council Member Sellers agreed that a public hearing should be scheduled to consider alternative 1.

Mayor Kennedy agreed to proceed with scheduling a public hearing. In the mean time, staff to gather additional information to address questions that the public may have. He recommended that the additional information be reported to the Finance & Audit Committee.

Council Member Chang recommended a public hearing for the rate increase and rate structure before the City Council.

Mayor Pro Tempore Carr noted that it was recommended that the Council revisit its rate structure in 04/05 to see if it is on track. He was not sure that getting up to the target reserve is a goal of his. The Council should consider if there are alternatives that would be less painful or more appropriate. He inquired whether two - 3% increases would be appropriate and alternate between years. This would still result in attaining the 6% in 05/06. He felt that \$8.19 million in reserves was too high and that the City may be charging its customers too much. He asked how the City can achieve a level that is close to the target reserve but not at it, leveling off instead of continuing to increase the reserves?

Mayor Kennedy said that expenditures were not made at the same time as the rates were being received. He did not believe that the consultant's recommendation was too aggressive. If you look at the operational fund reserve out to 06/07, it is down to \$63,000. It was his belief that this was the fund that should remain the highest.

Council Member Chang indicated that the normal inflation rate is at 3.5%, noting that the City is only proposing a 2% rate increase. Therefore, it was her belief that this is a reasonable rate increase.

City Treasurer Roorda addressed a perception of the operational fund in that the City has a very seasonal cash flow. He was not sure whether the 25% would get the City through the first year.

Mr. Frankopf said that the reserve is an amount that is based on an average rate of expenditures. He agreed that there is a seasonal variation. He said that the reserves are needed in order to pay for fixed costs. He said, that on average, there is a fluctuation in the fund balance. This is another way to study what the reserve balance would need to be. He has worked with other agencies that are billing customers on a tax roll who receive revenues only once or twice a year. There is a 9-month period where no revenues are collected. These agencies have high operational reserves to cover these long periods of time.

Mayor Kennedy said that this would be another useful graph to view.

City Manager Tewes said that there is a seasonality to the water fund. He said that the variation is not significant in terms of dollars with a 10% variation from the high to the low months.

Mayor Pro Tempore Carr clarified that he was looking at other percentages and not limit it to four years out. He stated that he does not necessarily need to achieve the target reserve being recommended.

Council Member Tate noted that the Council would be establishing guidelines. He recommended a 2% rate increase per year with a criteria being established. Should the City achieve a certain percentage of the target reserve, the Council would not need the 2% revenue. He stated that he would like to see a guideline that is flexible. He did not want to have a 2% increase every year, if not required.

Council Member Chang stated that yearly reviews would not be necessary if a \$4.6 reserve is exceeded.

Council Member Tate said that the reserve caps may be different for each Council Member than that of Council Member Chang's recommended reserve cap. He stated that he did not want to propose rate increases if they are not required.

Mayor Kennedy clarified that Council Member Tate is suggesting that the Council provide staff with a policy direction rather than having them return with more information at the public hearing.

Mr. Frankopf stated that the operating reserve is one that the Council needs to focus on and that the co-mingling of reserves confuses the picture. He said that the capital project reserve is on line. The rate stabilization reserves should be the lowest of the three reserves. He said that the \$3 million would cover the capital reserve and that the rate stabilization fund is more of a buffer to meet shortfalls because of dramatic/economic effects on water demands or other unforeseen capital improvements that are in addition to what is being funded from the capital reserves. He said that there may be a middle ground such as \$3 million that would get the City through the operating and capital expenditures. He said that this amount would give the City what it needs for capital projects.

Mayor Kennedy stated that he would like to incorporate Mr. Frankopf's suggestion of \$3 million in reserves.

Council Member Sellers felt that it would be important to present specific numbers at the public hearing. He felt that Mr. Frankopf's suggestion of separating funds makes sense.

### **Sewer Rates**

Finance Director Dilles explained that the sewer rates are higher in Morgan Hill versus Gilroy's rates and are attributed to carrying affluents from Morgan Hill to the sewer treatment plan in Gilroy.

Mayor Kennedy explained that sewer pipes are more spread out in Morgan Hill and that pump stations are located in the hillsides.

Mr. Frankopf stated that he did not see a need to restructure the sewer rates at this time as the reserves are high enough. If development were to slow down a lot, he said that there would be a need to increase connection fees. He stated that the impact fund reserves are not high enough and include the treatment plant as well as the flushing system.

City Manager Tewes said that the impact fees would be collected over the life of the general plan to pay for new growth and shared capacity improvements. When the first increment of capacity is triggered, the City has to build the whole trunk. He said that the cash flow does not track what the cash income is.

Mr. Dilles said that some of the costs of impact fees are recovered for construction and include interest costs.

Council Member Sellers said that in looking at the total rate increases, the City is at \$12 million this year and \$6 million in 05/06 with a target of \$4 million. In looking at the chart, he noted that the City would be 150% of the target in four years. He inquired why a rate reduction was not being proposed at the reserves are at 150% of what would be needed four years from now?

Mr. Frankopf responded that target reserves do not anticipate additional back stopping of rate revenues to cover debt services if the City does not achieve a rate of development.

City Treasurer Roorda expressed concern that if you look at the deficit and how it grows each year that it is at a 10%-15% range of revenue requirement. He said that the City would be reducing its reserves. If this occurs, it was his belief that the City would be close to the deficit line and that the City would be setting itself up for a huge rate increase.

Council Member Sellers inquired if there was a rate reduction that the City could consider this year and that the City look at the rates 4 years from now?

City Treasurer Roorda expressed concern with the current rate and when the crossover would occur as the City would then need to fund 15% of the rate increase.

Mayor Kennedy inquired about the possibility of lending some of these reserves for parallel trunks versus bonding for the full \$8 million, reducing the reserves?

City Manager Tewes noted that the amount of expenditure is greater than the amount of reserves. If and when the City issues debt, the City would be looking at all numbers regarding the use of cash reserves in order to reduce the over all cost of the program.

Mayor Pro Tempore Carr referred to page 21, the reserve fund balances. He said that it is being stated that the top end of the reserve of the water fund may be too high and that the City may want to prioritize these funds to lower them. He said that it appears that the City may need to do the same thing with the sewer funds. If this is the case, he felt that the target zone should be lowered.

City Manager Tewes felt that the risk in the sewer funds is greater than the water funds and are attributed to high power cost, technology, and regulatory requirements.

Council Member Sellers inquired if a public hearing would be required if sewer rates were not being proposed to increase?

City Manager Tewes responded that a public hearing would be required for adjusting rates up or down.

Council Member Sellers recommended agendizing consideration of whether or not there should be a change in the sewer rate structure.

Mayor Kennedy stated that he would be interested in taking a look at using some of the reserves for bonding of capital services as a loan or some thing of this nature versus reducing services. He recommended that the Finance & Audit Committee take a look at this.

City Manager Tewes felt that the economic effect would be the same if you borrowed from the capital markets for revenue bonds or whether the City collects from rate payers.

Council Member Chang inquired as to the rate required to keep the reserves at the level being addressed?

Council Member Sellers indicated that the City could increase sewer rates to 8% in one year or increase the rates at 2% for four years, similarly as is being proposed for the water rates. He recommended that the City split the difference and not wait until 05/06 to increase the sewer rates.

City Manager Tewes noted that Mayor Kennedy suggested that triggers be established or red flags be identified that would necessitate Council review of the rate structure. If the rates appear to be dropping faster than anticipated, the rates could be increased sooner. It may turn out that the rate increases may not be necessary for 3-4 years.

Mayor Kennedy inquired if Mr. Frankopf studied what decrease in rates would bring the City to the target reserve by 06/07?

Mr. Frankopf said that decrease in rates would increase the deficit at the same time. He said that one way to look at this is to determine what rate of decrease, on a one time basis, would get the city to a target rate at 06/07. Another way to look at this is what would be the annual rate decrease that

would achieve the appropriate target level. This alternative would be a gradual way to achieve the target level. He indicated that borrowing is related to the expansions.

Mark Grzan felt that there must be a reason why the City cannot take the excessive sewer reserves and place them in the water reserves. He said that Council direction appears to be reaching a target reserve. He said that it seems that one of the Council's considerations this evening is to move quickly toward the water target reserve with a heavy impact. He felt that the Council should also be looking at bringing the excessive reserves in line with the target for sewer to be consistent. If the sewer reserve is not where it should be, the Council should adjust it. By keeping the reserves at a higher amount than required appears to conflict with the Council's plans for water.

Mayor Kennedy recommended that the Council refer the issue of looking at sewer rate decreases to the Finance & Audit Committee, working with staff to see if it makes sense to proceed with a rate reduction.

Council Member Sellers said that should the Finance & Audit Committee find that no change is needed in sewer rates, that this recommendation return to the Council.

Council Member Tate stated that he has not convinced himself that reducing the sewer rates was the right thing to do as an inherent risk exists. He was not comfortable in considering a rate reduction when there is a possibility of a rate increase in future years. He felt that sewer rates were more volatile than water rates.

Council Member Sellers said that he would like to look at a rate reduction this year and then an increase in another year, smoothing out the rates.

Council Member Chang said that the goal should be to have a zero deficit with a reserve at a certain level.

City Manager Tewes noted that with the water rates, the Council indicated that it would like staff to schedule a rate increase for public hearing and that staff is to analyze certain options that relate to certain targets for each of the water reserve funds. With respect to sewer, the Council has referred this matter to the Finance & Audit Committee who will report back to the City Council with a recommendation of whether or not to adjust sewer rates.

Mayor Kennedy stated that he needed more information relating to the fact that the sewer rate structures and expenditures are more volatile and elaborate.

Mayor Pro Tempore Carr stated that he would like to look at the direction the Council is headed with regards to sewer funds to see if there is an opportunity to lower these rates on a short term basis. He asked if it would be a benefit to having this item return to the Council versus sending it to the Finance & Audit Committee as he would hate to lose information.

Mayor Kennedy stated that he would support having the sewer rate structure returning to the Council in a work study session.

City Manager Tewes said that the Finance & Audit Committee could review the sewer rate structure and that the item could be scheduled for a council workshop.

Mayor Pro Tempore said that when he served on the Finance & Audit Committee, the Committee did not have enough time to do the things that it had to do without having the Council assigning the Committee new thing to work on.

Mayor Kennedy noted that the Council recently amended its meeting schedule to accommodate a one hour meeting by the Finance & Audit Committee.

**Action:**        *The Council **Reviewed** the Water and Sewer Fund Revenue Requirements Study, **Evaluated** Sewer and Water Revenue Alternatives, and **Directed** staff as follows: Water Rates: Staff to analyze the target zone for each of the reserve funds and then determine their cumulative effects. Staff to **Schedule** a public hearing. **Sewer Rates:** **Referred** this item to the Finance & Audit Committee and **Directed** staff to schedule the sewer rate structure for a city council workshop session.*

## **2.        UPDATE ON BUDGET AND REVENUE FORECAST**

Finance Director Dilles presented the staff report.

Council Member Sellers stated that he assumed that department heads gave consideration to what might be included in the 4% budget reduction. He said that he was not sure that he would support cuts in certain areas unless he had an idea as to the cuts being proposed by staff.

Finance Director Dilles said that department heads discussed what items could be cut. He said that staff wanted to give the City Manager discretion in reducing the budget in areas where it is most applicable. He said that initially, staff felt that it made sense to reduce the budget by 4% across the board as it did last year. However, it was found that at a certain threshold, it does not make sense any more because some programs may be more valuable than others and that it may be easier to cut more from a larger department versus a smaller department. Staff would like the discretion to manage the budget in order to find other areas to be cut that would minimize departments or services to the community.

Council Member Sellers said that he was not interested in the details of the proposed cuts at this time, but that he was trying to figure out whether the proposed cuts are counter to the initiatives that the Council has stated. He asked if staff was making the cuts because they are appropriate or whether they are being made to share the pain, even if they are counter to what the Council has set forth (e.g., not filling positions or cutting programs).

Finance Director Dilles informed the City Council that only cuts in the general fund are being proposed and not in the Community Development funds.

City Manager Tewes informed the Council that staff is suggesting a set of guidelines about how to achieve the 4% savings. He said that staff is not recommending cutting 4% because it is appropriate to do so, but that it is necessary to do so. He stated that staff is looking at departments who were looking to expand a level of service or provide a new level of service. Staff will look at position vacancies and hope that through normal attrition and careful monitoring of positions there would be additional savings. He indicated that this may have marginal impacts. Staff will be focusing on internal services before impacting the community. If enough money is still not found, adjustments will need to be made that might have marginal impacts to the community. Staff would like to manage the 4% reduction in a way that would not impact services to the community. He indicated that the Council will spend time reviewing its fiscal goals and establish a long range approach to the budget in January 2003. He said that it appears that one other agency in our county, VTA, saw an increase in the economy, got on the fast lane, and now sees signs of trouble and have slowed down. He said that the City has never been on the fast lane and proceeded on a moderate path in terms of levels of services being provided and is moving slowly to manage its resources. He said that this is attributed to the Council's fiscal prudent planning.

City Treasurer Roorda stated that he interprets what the City Manager as stating that there would be less cost with the same level of services being provided as an objective. He said that the City Manager has demonstrated that he has been able to achieve cost savings and provide services in the past.

Mayor Kennedy noted that the Community Development fund would not have cuts because they are not dependent on the general fund. This leaves fire, police, recreation, administration and finance who are dependent on the General Fund. He said that the fire department is fixed. It is the police and recreation departments that would probably have to take the biggest hits, noting that these are the two highest Council priorities at this time. With all the recreational facilities coming on line, he did not believe that this was the time to cut back on recreation operating expenses. He felt that dipping into the general fund reserve in the amount of \$187,000 is very minimal and that he would support staff's recommended actions.

Mayor Pro Tempore Carr asked why staff is not recommended an even deeper dip into the reserves?

Finance Director Dilles said that staff felt that it would be appropriate to try to manage the budget down as best it could without significantly impacting services.

City Manager Tewes said that staff cannot forecast when the current downturn will end and that staff is proposing a prudent course in managing its finances because the City may need to bring down its expenditures over the long haul. If staff had seen that the recession would be over and the economy was improving, staff would not be making this recommendation. He felt that it was prudent to use

some of the reserves and start reducing expenditures.

Council Member Chang asked what is the difference between last year's 5% reduction and the proposed 4% budget reduction this year?

Finance Director Dilles responded that the 5% reduction was carried into this fiscal year. He said that the budget levels were kept low this year except for police and recreation services. He noted that supplies and service costs have gone up as well as salaries. He said that staff is proposing deeper cuts with this recommendation.

Council Member Sellers stated that he was comfortable with the proposed action as long as it is understood that there would be a review of the budget in January. If there appears to be cuts that are excessive as part of staff's proposed 4% budget reduction, the Council can evaluate the situation. Conversely, if the situation appears to be getting worse, the Council can discuss the appropriate actions to take.

Mayor Kennedy stated that he was also comfortable with the recommended actions. He responded to the question of why not dipping further into the reserves. He stated that situations do not drastically turn around once you reach the bottom. He felt that this is the appropriate action to take and that the City needs to start cutting its expenditures, particularly since the economic future is so uncertain. If there was certainty in what is to happen in the future, he would be open to dipping further into the reserves. He supported the concept of a fairly high percentage of belt tightening as part of this action as this is a good balance.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**      *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Directed** the City Manager to Reduce General Fund Costs to a Target Level of 4% Below Budget; Except Fire and Medical Services, and to Minimize Adverse Service Affects; and **Directed** the Finance & Audit Committee to Explore Potential Revenue Sources for the General Fund*

**Action:**      *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Using \$184,000 of the General Fund Reserve Designated for Economic Uncertainty to Finance the 2002/2003 Budget.*

### **3.      FUND RESERVE AND DESIGNATION POLICY**

Director of Finance Dilles presented the staff report. He indicated that property taxes were not incorporated. He said that what was reviewed were the volatile taxes, indicating that property taxes tend to be more stable.



Mayor Kennedy recommended that property taxes be included in the formula as what is being presented appears to be conservative.

Council Member Tate indicated that the Fund Reserve and Designation Policy was designed to be conservative. He said that the Finance & Audit Committee focused on this policy as what should be the Council's guideline. He did not focus on what the Council would do based on the fact that there is a \$4 million surplus. He indicated that the Committee only looked at this from a policy standpoint in terms of the amount of funds the City needs to get by as opposed to the 50% reserve established a year ago. The Committee did not consider what to do with the left over funds. He felt that the left over funds could be used as part of the operating budget but felt that it would be better to use these funds to endow a fund such as parks maintenance.

City Treasurer Roorda indicated that he viewed the policies as guide rails to assist the City in tough times. The Committee established certain reserve levels to achieve. He indicated that the Committee also talked about a method to repay dollars that are taken out of the fund when economic times are better. It is hoped that future councils would deal with this policy appropriately and maintain the funds. The Committee felt that the policy would provide guidance over a period of time and that it would make prudent sense to identify how much money can be taken out of the reserves and for what reasons.

Mayor Pro Tempore Carr indicated that the proposed policy stemmed from the budget adopted last June. The Council had discussion on how to apply some reserve funds within the fiscal year budget. He said that the Committee was looking for something that would shape into a guide as the Council looked at the growth and use of the reserve funds. He felt that staff has brought back some good suggestions for Council consideration.

Council Member Chang inquired as to how the percentages of reserves were derived? She said that the Council spoke about looking at a six-month general fund reserve. She said that a financial advisor would state that every household should have at least six months in operating finances in reserves. She noted that 25% would cover three months of operating expenses.

Finance Director Dilles said that 60 days and 17% came from a rule of thumb. It was felt that a percentage needed to be identified and the question was how much reserve would be appropriate. The 17% is intended to buy some time to address issues that may come up. If an issue does come up, the City would have 60 days of expenses. He said that it would be likely that the City may experience a partial disruption and therefore would have more than 60 days of operational abilities. He said that there was nothing definitive about the 60 days and that it is a judgement call. He said that other cities have different amounts of reserves, noting that the recommended reserve is on the high side compared to other cities that he has worked for. He felt that 60 days of reserve was a sufficient amount but that the City still needs to look down the road, manage its resources and stay within resources.

Council Member Chang inquired how quickly can the City react should it lose 33% of its revenue from the State?

Mayor Pro Tempore Carr indicated that the Committee felt that 17% in reserves and 60 days would buy the City reaction time. He felt that 17% in reserves would last a lot longer than 60 days. He said that the way this Council and the management team have reacted in the past, it was felt that 60 days was a prudent amount of time to react and make a judgement to a given situation. He felt that the City has a better planning horizon to what the State may do to the City versus an emergency situation that may occur.

Council Member Sellers felt that the reserves would be impacted by the economy and not by what the State does. He said that a 30% reduction from the State would not result in a 30% reduction in the City's budget.

City Treasurer Roorda indicated that at a 25% State reduction, the 17% would last six months.

Council Member Chang said that in looking at the numbers, she would not want to use all of the \$11+ million in reserves. She indicated that she would not mind using some of the reserves, noting that she did not object to use of some of the reserves in the action taken by the Council earlier this evening based on the current situation. However, when you look at the uncertainties for the next six months, she felt that the City should be looking at the debt service issue as well. She stated that she would support using some of the reserves but keeping them at 50%.

City Treasurer Roorda said that should the Council establish a large dollar amount in reserves, a future Council may be less prudent and would drain a larger amount of funds if a policy is not in place.

Council Member Chang stated that at times like this, the last thing the Council should do is increase the level of service delivery.

Mayor Kennedy stated that he would support reducing the reserves somewhat, but that he would be concerned about going as far as is being recommended. He recommended the percentage in reserves be applied incrementally.

Council Member Chang noted that at the end of five years, there would be a \$1 million deficit in the operating expenses because the budget would decline.

Council Member Sellers noted that the policy would not be instituted immediately. He said that it would be a policy matter that would take affect next year to the extent that the City continues to see an economic downturn. If there is to be an economic turn around, there would be a \$4 million reserve.

Council Member Chang noted that the State would be experiencing a \$15 billion state deficit. She felt that the next two to three years would be difficult ones. She recommended that the Council wait for the issues to settle before spending money.

Council Member Tate noted that this is only a policy and not a mandate to utilize the reserves.

Council Member Chang felt that once the policy is adopted, it would apply to next year's budget.

Council Member Sellers stated that he was comfortable with the recommended policy as he felt that the reserves have been too high and that he continues to feel that they are too high. He did not believe that it is was prudent to keep the reserves too high.

**Action:**        *Council Member Sellers made a motion, seconded by Mayor Pro Tempore Carr, to **adopt** the measures as recommended by staff.*

Council Member Tate felt that the policy was a good one and that the 17% was subjective. He would be willing to increase the percentage to a higher amount that would satisfy the Council's comfort level. He also stated that he was comfortable with the 60 days of reserves but that he would be willing to consider an alternative.

Mayor Kennedy indicated that he could not support the motion as stated. He offered the following amendment to the motion: increasing the percentages for emergency reserves to 17% and economic uncertainty to 17%. This would change the total identifiable reserves and designations of the general funds to approximately \$8.7 million with a remaining projected unallocated fund balance of less than \$2 million

City Treasurer Roorda said that in order to maintain the reserves as recommended would result in the Council adding to the reserves in the future, even if the City was facing good economic years. Should the City find itself in a forced budget situation, the Council would be potentially restricting services to increase reserves.

Council Member Chang said that the policy can be changed, if necessary. She noted that the City would be taking 40% out of its reserves. She felt that once you take the \$4 million out, it is lost. She noted that the City is at 60% reserves (\$11.2 million).

Mayor Kennedy inquired as to the policy's recommended balance? He inquired how much of a surplus over the policy recommended reserve would the City be at?

Council Member Chang responded that the recommended policy would leave a 20% reserve.

Mayor Kennedy noted that a 50% reserve would be approximately \$8 million, noting that the City has almost \$11 million in reserves. This results in approximately \$3 million in excess reserves over

the current policy. One suggestion would be to stick to the current reserve policy.

Council Member Tate did not recall that the Council adopting a reserve policy and that the Council felt that it needed to have a 50% reserve.

Mayor Kennedy felt that a Council statement is in fact a policy.

**Action:**        *Council Member Sellers called for the question.*

Mayor Kennedy noted that Council Member Sellers called for the question. He indicated that it takes a four Council member vote to call for the question. Therefore, the Council would continue its discussion.

Council Member Chang recommended a lower percentage rate, not necessarily 50%. She expressed concern that the reserves would disappear if the policy is adopted. She was not sure if the policy was being proposed to address economic bad times or whether it was being proposed to increase levels of service.

Council Member Tate responded that the Finance & Audit Committee did not discuss the use of the reserves in great detail. However, there was discussion of endowing other services.

Mayor Pro Tempore Carr said that at time of discussing and passing the Fiscal Year 2002-03 budget, the Council had difficulties as it talked about using different reserve funds. Included in the discussions were the appropriate use of emergency funds and the economic uncertainty funds. He stated that the Council had different definitions for their uses. This is what drove the policy as the Council did not have an agreement on how to use the different designated fund reserves. The Committee took a look at how reserves should be used. He felt that it would be appropriate to discuss how to use the remaining \$4 million. He said that the Committee did not discuss lowering the reserves in order to be able to spend more money. He noted that the \$4 million is not a part of this policy. The Committee felt that at a minimum, the general fund reserve level should be one that would assist the City to get through catastrophic situations and that the City would have 60 days to react to the situation. The Committee also looked at other reserve funds, noting that the Commission is recommending increases to these funds. The Committee looked at what it would mean when the economy improves and the reserves grow and how they should be capped so that the reserves are not too high. The Committee did not want to have constituents thinking that their taxes are too high because the City has a large reserve in place that are not being used. He did not believe that the Council should think that it has \$4 million to spend in order to increase service delivery levels or trust funds. He felt that this would be a policy that would instruct Councils on what to do and provide staff with guidance on the emergency funds.

Council Member Chang noted that the discussion started out with regard to using some of the reserves for the current budget. She felt that adoption of the policy would result in an automatic

reaction on where the reserves should go.

Mayor Pro Tempore Carr clarified that the proposed policy, if adopted, would define how the City will use its reserves for economic uncertainties and emergencies with regards to which reserve funds to use. He noted that the Council had discussions in the past on which reserve funds would be appropriate to pull dollars from.

Finance Director Dilles indicated that there is a 50% reserve statement in the budget but that he could not find it as a separate policy.

Council Member Chang noted that a 31% general fund reserve is being proposed.

Council Member Tate suggested a 20%, 10%, and 10% reserve as a compromise. He did not understand the 17%, 17%, and 17% as recommended by Mayor Kennedy.

Mayor Kennedy felt that the economic uncertainty is the biggest risk that the City is facing at this time. He felt that the percentage is a gut feeling and from the “scares” from past times. He felt that more reserves are needed for economic uncertainties and for potential disasters. He felt that the policy is good and supports the language. However, he felt that the percentage numbers being recommended were too low.

Council Member Chang stated that she would support a percentage between 40% and 50%.

Mayor Kennedy said that he would support a 25% general reserve and leaving the other two reserves at 7%, resulting in a total of 39% in reserves. He noted that 90-days equates to 25%.

Mayor Pro Tempore Carr said that a 60-day reserve was one that the Committee spoke extensively about. He felt that the policy is one of a Council comfort level.

Council Member Sellers said that he was comfortable with the numbers, noting that the Committee spent a lot of hours and weeks going over the proposed policy. He noted that the 60-day reserve is higher than what most other cities have and that it is a comfortable level.

Mayor Pro Tempore Carr said that 60 days is higher than what most cities have and that it was felt that 60 days would give the City plenty of time to be able to make adjustments to accommodate different problems. Even if a catastrophic situation occurs where all of the City's income was completely eliminated, and the City decides not to react in 60 days, he stated that there were other funds to draw down as well as the \$4 million. He said that it is easy to state 60 days or 90 days. It was his belief that what this boils down to is one's comfort level, indicating that he has a comfort level with 60 days.

Council Member Tate said that 60 days is an absolute lag when all funds are depleted. He did not

believe that the 60 days would ever happen.

City Treasurer Roorda said that with a 25% reserve reduction it would buy the City 6 months or more to react.

Council Member Chang felt that a 60-day reserve would result in a panic mode. She felt that once you have the money, it would be spent.

Mayor Kennedy said that his comfort level is at 50% reserve and that he would be willing to compromise to bring the general fund reserve to 25% and the other two reserves at 7% for a total of 39% in reserves.

Council Member Sellers expressed frustration that he could not get consideration on his motion as a majority of the Council feels one way about it. He did not believe that the process/discussion should be one that continues until a majority of the Council acquiesces. He felt that the Finance & Audit Committee spent a lot of time on the policy before the Council.

Council Member Chang felt that consensus building was important for the Council.

Council Member Sellers stated that he has a fundamental philosophical problem in taking and holding on to too much of the tax payers' money for a period of time. This resulted in the consideration of a policy. Asking him to compromise in this issue would result in holding onto more of the tax payers' money. He felt that the City is at a reserve level that it should be. He said that he would vote against anything other than what was recommended this evening.

**Action:**        *Council Member Sellers called for this question.*

Mayor Kennedy felt that it was a prudent fiscal responsibility to keep an adequate reserve in times of economic uncertainty. He stated that he would be willing to reduce the reserves to an acceptable level. He said that the build up in reserves is attributed to the Council's frugal responsible management of funds. He was supportive of using reserves for identified community purposes but felt that the City needs to protect itself from over spending in times of economic uncertainty.

Council Member Chang said that it is wonderful time to have this amount in reserves. She said that it would be more comfortable to be able to spend the money and feel that there is room for wiggle and mistakes. She is hoping for a cooperative spirit from the Council in the next two years. She noted that she and Mayor Kennedy came down 10% on this uniformed issue.

**Action:**        *On a motion by Council Member Chang and seconded by Mayor Kennedy, the City Council on a 3-2 vote with Mayor Pro Tempore Carr and Council Member Sellers voting no, **agreed** to amend the motion to incorporate a 20%, 10%, 10% reserve*

*ratio.*

**Action:** *The main motion, as amended, which adopts the "Fund Reserve and Designation Policy language with the understanding that it is a 20% general fund reserve, 10% reserve for emergencies and 10% reserve for economic uncertainty. The motion carried 3-2 with Mayor Pro Tempore and Council Member Sellers voting no.*

#### **4. COUNCIL DIRECTION REGARDING SCHEDULING OF SPECIAL MEETINGS**

City Manager Tewes presented the staff report. He stated that it is the staff's belief that it can handle the scheduling issue with Council cooperation through the Clerk's office. The Council needs to discuss whether it wants to be involved in all meetings to which it appoints a subcommittee or whether it wants to rely on an appointed subcommittee.

Council Member Tate indicated that to him it was the calendar coordination that was an issue. He inquired whether there is an automated way to coordinate meetings, having all Council Members calendars on the website?

Mayor Pro Tempore Carr said that the issue for him is calling special meetings. He stated that he has been frustrated that the Council works in a subcommittee fashion. He felt that Council members are appointed to subcommittees and then a majority of the Council decides that it wants to attend a subcommittee meeting. This results in the City Clerk's office being forced to call the special meeting, agendize the meeting, send notice of the meeting to the newspaper and others. He noted that a few weeks ago, the City Council had a slue of special meeting minutes which the Council was to approve. As he read through the minutes, he noted that most meetings had one Council Member or the Council Chair of the subcommittee in attendance, and in some instances, no Council Members in attendance. He felt the Council needs to be honest and prudent when it appoints Council Members to subcommittees. If all Council members want to be part of the subcommittee, he felt that it should be so indicated at the dias. This may result in the Council deciding not to appoint a subcommittee and working on the issue as a Council. He does not like to miss Council meetings, or to give the impression that he is not doing the work that he has been asked to do by the public. He recommended a uniform means of calling meetings be established. He said that there have been meetings called that did not go through the proper channels, noting that a policy is in place which allows for special meetings to be called by the Mayor or three Council members. He recommended that the formal policy be used and respect be paid to each others time.

Mayor Kennedy said that part of the problem is where there is a public meeting which more than two Council members would like to attend. He noted that it is the City Attorney's opinion that the meeting has to be posted as there may be a potential for Council policy discussion.

City Manager Tewes said that it is clear that when a majority of Council members wish to attend a subcommittee meeting to discuss city business, it would result in a majority of the City Council

discussing city business. This would result in the need to call a special meeting. He said that the conservative approach where it is uncertain whether city business will be discussed, and a majority of the Council will attend, is to post the meeting.

Council Member Sellers concurred with Mayor Pro Tempore Carr on this issue. He recommended a policy such that should a council member wish to have a meeting held, it should be brought to the entire Council's attention through the City Manager and that he bring it up at a Council meeting. The Council should be prepared to have its calendars at the meetings so that the Council can discuss meetings in a formal way. He felt that meetings are being called that should not be called and are being called informally. In other instances, a council member wishes to meet with a citizen's group. This results in council members being called to attend informal meetings. He indicated that every week he receives a number of calls from staff confirming his attendance at meetings. He recommended that a policy be established that defines how special meetings are to be called. It was his belief that there are cities that have master calendars that can be accessed through the web site.

Council Member Chang inquired what would happen if she is called to see if the Mayor and other council members can attend a group meeting?

Council Member Sellers felt that it should be clear that a Council member should go through the City Manager to discuss scheduling a special meeting at a Council meeting. If this is not clear to council members, he felt that a policy should be adopted by the Council that sets forth the process for scheduling special meetings.

Council Member Chang indicated that she was not clear as to the process for calling special meetings. She indicated that she contacted every council member regarding their availability to attend a special meeting because she felt that none of the council members would want to be excluded from the meeting. She said that she is starting to feel that the Council is not working together. She indicated that there are times when she is unable to attend special meetings and she has not requested that the meetings be held because the meetings were not convenient for her. She requested that the council work together as she is looking forward to two more years together.

Council Member Tate felt that Council Member Sellers offered good suggestions and would address Mayor Pro Tempore Carr's concerns.

City Manager Tewes clarified that there was also policy discussion about circumstances in which the Council would appoint a subcommittee. To be clear that if the Council appoints a subcommittee, it is the intention to ask the subcommittee to take the lead on the matter/issue, otherwise, the Council is not to appoint a subcommittee.

Council Member Chang indicated that the Woodland Mobile Home Park residents are inviting Mayor Kennedy and the Council Members to attend a meeting. It appears that all Council Members are available next Monday. She noted that Mayor Kennedy and Council Member Sellers are the



members serving on the Medical Services and could attend the meeting. Other Council Members can attend as citizen members or the Council can call a special meeting.

Council Member Tate questioned the need for a meeting on Monday when the Council will be presented with a report from the Morgan Hill Community Health Foundation on Wednesday night regarding medical services.

Mayor Pro Tempore Carr requested that should the Council appoint a subcommittee, that the Council let the subcommittee take the lead.

Council Member Tate recommended that staff look into having Council calendars on the web.

Mayor Kennedy said that he looks at this meeting as receiving the Woodland Mobile Home Park residents' comments before meeting with John Ray and the medical foundation.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**     **No action taken.**

## ***City Council Action***

### **CLOSED SESSION:**

City Manager Tewes informed the City Council that City Attorney Leichter had to excuse herself from the remainder of the meeting. He said that City Attorney Leichter indicated that the closed session items could wait to another meeting date.

#### **1.**

##### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Case Name:	City of Campbell et al. v. CalPERS
Case Number:	OAH 5119
Attendees:	City Attorney, City Manager

#### **2.**

##### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54956.9(a)
Case Name:	Allivato v. City of Morgan Hill et al.
Case Number:	Santa Clara County Superior CV 810111
Attendees:	City Attorney, City Manager

### **OPPORTUNITY FOR PUBLIC COMMENT**

No comments were offered.

**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

No items were noted.

**ADJOURNMENT**

There being no further business, Mayor Kennedy adjourned the meeting at 11:10 p.m.

**MINUTES RECORDED AND PREPARED BY**

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**IRMA TORREZ, City Clerk**